JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

2007 Regular Session

Volume I

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2007,
and in the Two Hundred and Fifteenth
Year of the Commonwealth

Begun on Tuesday, the Second Day of January, 2007, and Adjourned
Sine Die on Tuesday, the Twenty-Seventh Day of March, 2007

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the House Journal for the Regular Session of the 2007 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected representatives, roll call votes, and a sponsor and subject index.

JoAnn Paulin, Marlene Rutherford, and Billie Gabbard prepared the *House Journal* for the 2007 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2007

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JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY
FIRST REGULAR SESSION
OF 2007
TUESDAY, JANUARY 2, 2007
FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 2, 2007, the two hundred and fifteenth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Jody Richards assumed the Chair and called the House to Order.

Prayer was offered by Reverend Bobby Rich, Pritchetts Chapel of Hanson, Kentucky. He is a guest of Representative Ballard.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Special music was rendered by The Kentucky Gentlemen, from Hanson, Kentucky.

Representative Ballard moved the adoption of the following **Legislative Citation No. 1**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to the Kentucky Gentlemen upon visiting the House Chambers during this opening day of the 2007 Regular Session of the Kentucky General Assembly to entertain and inspire the members of this honorable body. Having recorded their first Nashville produced CD, and performing in Ohio, Indiana, Tennessee, and throughout Kentucky, this talented and dedicated group of musicians, comprised of Pastor Bobby Rich, Freddie Pharris, Ed Chainey and Royce Pace, had its beginning at Pritchett's Chapel near Hanson and Madisonville, Kentucky. The members of this distinguished body are honored to join with Representative Eddie Ballard in extending a warm welcome to the Kentucky Gentlemen and in offering sincere expressions of gratitude to them for their gracious presence on this auspicious occasion. Done in Frankfort, Kentucky, this second day of January, in the year two thousand and seven.

Legislative Citation No. 1 was adopted without objection.

The Clerk read the following certificate from the Secretary of State:

I, Trey Grayson, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 12th day of December, 2006.

/s/TREY GRAYSON

SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY

1st District	Steven J. Rudy 3430 Blue Ridge Drive West Paducah, KY 40286	2nd District	Fred Nesler 400 State Route 440 Mayfield, KY 42066
3rd District	Frank Rasche 2929 Jefferson Street Paducah, KY 42001	4th District	Mike Cherry 803 S. Jefferson Street Princeton, KY 42445
5th District	Melvin B. Henley 1305 S. 16th Street Murray, KY 42071	6th District	J. R. Gray 3188 Mayfield Hwy. Benton, KY 42025
7th District	John A. Arnold, Jr. 1301 N. Lee Street Sturgis, KY 42459	8th District	John C. Tilley 126 Mooreland Drive Hopkinsville, KY 42240
9th District	Myron B. Dossett 7155 Salubria Springs Rd Pembroke, KY 42266	10th District	Joseph E. "Eddie" Ballard 1811 Grampian Drive Madisonville, KY 42431
11th District	David Allen Watkins 5600 Timberlane Drive Henderson, KY 42420	12th District	Jim Gooch, Jr. 210 Bradley Street Providence, KY 42450
13th District	Jim Glenn 1001 Michaels Court Owensboro, KY 42303	14th District	Tommy Thompson 4460 Hwy. 142 Owensboro, KY 42303
15th District	Brent Yonts 232 Norman Circle Greenville, KY 42345	16th District	Sheldon E. Baugh 252 West Valley Drive Russellville, KY 42276

17th District

C. B. Embry, Jr.
415 N. Ward Ave
Morgantown, KY 42261

18th District

Dwight D. Butler
4152 Hwy. 60 East
Harned, KY 40144

19th District

Dottie J. Sims
459 Violet Ave
Horse Cave, KY 42749

20th District

Jody Richards
817 Culpepper Street
Bowling Green, KY 42103

21st District

Jim DeCesare
136 Cedar Trail Ave
Bowling Green, KY 42101

22nd District

Rob Wilkey
220 Homestead Court
Scottsville, KY 42164

23rd District

Johnny W. Bell
4383 Roseville Rd
Glasgow, KY 42141

24th District

Jimmy Higdon
344 N. Spalding Ave
Lebanon, KY 40033

25th District

Jimmie Lee
901 Dogwood Drive
Elizabethtown, KY 42701

26th District

Tim Moore
417 Bates Rd
Elizabethtown, KY 42701

27th District

Jeff Greer
45 Knollwood Rd
Bradenburg, KY 40108

28th District

Charles W. Miller
3608 Gateview Circle
Louisville, KY 40272

29th District

Kevin D. Bratcher
10215 Landwood
Louisville, KY 40291

30th District

Tom Burch
4012 Lambert Ave
Louisville, KY 40218

31st District

Steve Riggs
8108 Thornwood Rd
Louisville, KY 40220

32nd District

Scott W. Brinkman
6001 Two Springs Lane
Louisville, KY 40207

33rd District

Ron Crimm
10206 Judith Court
Louisville, KY 40223

34th District

Mary Lou Marzian
2007 Tyler Lane
Louisville, KY 40205

35th District	Jim Wayne 1280 Royal Ave Louisville, KY 40204	36th District	Lonnie Napier 302 Danville Street Lancaster, KY 40444
37th District	Ron Weston 423 Chieftain Drive Fairdale, KY 40118	38th District	Tim Firkins 212 East Esplanade Ave Louisville, KY 40214
39th District	Robert R. Damron 231 Fairway West Nicholasville, KY 40356	40th District	Dennis L. Horlander 1806 Farnsley Rd, Ste. 6 Louisville, KY 40216
41st District	Tom Riner 1143 E. Broadway Louisville, KY 40204	42nd District	Reginald K. Meeks 2301 Osage Ave Louisville, KY 40210
43rd District	Darryl T. Owens 1022 S. 47th Street Louisville, KY 40211	44th District	Joni Jenkins 2010 O'Brien Court Shively, KY 40216
45th District	Stan Lee 1401 Glenview Drive Lexington, KY 40514	46th District	Larry Clark 5913 Whispering Hills Blvd. Louisville, KY 40219
47th District	Rick W. Rand 307 Gills Ridge Rd Bedford, KY 40006	48th District	Bob M. DeWeese 6206 Glen Hill Rd Louisville, KY 40222
49th District	Larry Belcher 4804 Hickory Hollow Lane Shepherdsville, KY 40165	50th District	David W. Floyd 102 Maywood Ave Bardstown, KY 40004
51st District	Russ Mobley 900 Holly Street Campbellsville, KY 42718	52nd District	Ken Upchurch Rt. 3, Box 7033 Monticello, KY 42633

53rd District
James R. Comer
407 4th Street Blvd.
Tompkinsville, KY 42167

54th District
Mike Harmon
535 S. Lucas Street
Junction City, KY 40440

55th District
Milward Dedman
1561 Lexington Rd
Harrodsburg, KY 40330

56th District
Carl P. Rollins II
405 Merrywood Drive
Midway, KY 40347

57th District
Derrick W. Graham
157 Bellemeade Drive
Frankfort, KY 40601

58th District
Brad Montell
1555 Harrington Mill Rd.
Shelbyville, KY 40065

59th District
David W. Osborne
11400 Covered Bridge Rd
Prospect, KY 40059

60th District
Sal Santoro
596 Waterlot Court
Florence, KY 41042

61st District
Royce W. Adams
580 Bannister Rd
Dry Ridge, KY 41035

62nd District
Charlie Hoffman
406 Bourbon Street
Georgetown, KY 40324

63rd District
Jon E. Draud
3081 Lyndale Court
Edgewood, KY 41017

64th District
Thomas Robert Kerr
5415 Old Taylor Mill
Taylor Mill, KY 41015

65th District
Arnold R. Simpson
112 West 11th Street
Covington, KY 41011

66th District
Addia Kathryn Wuchner
1644 Glens Drive
Florence, KY 41042

67th District
Dennis Keene
1040 Johns Hill Rd
Wilder, KY 41076

68th District
Joseph M. Fischer
126 Dixie Place
Ft. Thomas, KY 41075

69th District
Adam Koenig
3346 Canterbury Court
Erlanger, KY 41018

70th District
Mitchel B. "Mike" Denham
306 Old Hill City Rd
Maysville, KY 41056

71st District	John Will Stacy Liberty Rd West Liberty, KY 41472	72nd District	Carolyn Belcher 1463 Old State Rd Owingsville, KY 40360
73rd District	Don Pasley 5805 Ecton Rd Winchester, KY 40391	74th District	Richard D. Henderson 60 Myers Cemetery Rd Jeffersonville, KY 40337
75th District	Kathy W. Stein 364 Transylvania Park Lexington, KY 40508	76th District	Ruth Ann Palumbo 10 Deepwood Drive Lexington, KY 40505
77th District	Jesse Crenshaw 117 Constitution Street Lexington, KY 40507	78th District	Thomas M. McKee 1053 Cook Rd Cynthiana, KY 41031
79th District	Susan Westrom 2965 B Candlelight Way Lexington, KY 40502	80th District	Danny R. Ford 310 Williams Street Mt. Vernon, KY 40456
81st District	Harry Moberly, Jr. 119 Jacks Trace Richmond, KY 40475	82nd District	Charles L. Siler 3570 Tackett Creek Rd Williamsburg, KY 40769
83rd District	Jeff Hoover 444 Sparks Ave Jamestown, KY 42629	84th District	Brandon D. Smith 350 Kentucky Blvd. Hazard, KY 41701
85th District	Tommy Turner 175 Clifty Grove Church Rd Somerset, KY 42501	86th District	Jim Stewart 141 KY 223 Flat Lick, KY 40935
87th District	Rick Nelson Route 3, Box 686 Middlesboro, KY 40965	88th District	Bill Farmer 3361 Squire Oak Drive Lexington, KY 40515

89th District	Marie L. Rader U.S. 421 South McKee, KY 40447	90th District	Tim Couch 215 Meadow Lane Hyden, KY 41749
91st District	Ted "Teddy" Edmonds 1257 Beattyville Rd Jackson, KY 41339	92nd District	Ancel "Hard Rock" Smith 1812 Wiley Fork Rd LeBurn, KY 41831
93rd District	W. Keith Hall 155 McCoy Caney Rd Phelps, KY 41553	94th District	Leslie A. Combs 245 East Cedar Drive Pikeville, Ky 41501
95th District	James Brandon Spencer 135 Calf Branch Prestonsburg, KY 41653	96th District	Robin L. Webb 404 W. Main Street Grayson, KY 41143
97th District	Hubert Collins 72 Collins Lane Whittensville, KY 41274	98th District	Tanya Pullin 1026 Johnson Lane RR #1, Box 486 South Shore, KY 41175
99th District	Rocky Adkins 10056 Windsong Court Catlettsburg, KY 41129	100th District	John Vincent 2320 Hickory Ridge Dr. Ashland, KY 41101

Said Representatives were administered their oath of office by the Honorable Mary C. Noble, Justice of the Kentucky Supreme Court.

The roll was called. All members were present.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Representative Adkins moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 17, by Representative Hoover: A RESOLUTION adjourning the House of Representatives in loving memory and honor of the late Gerald R. Ford, the 38th President of the United States of America, whose journey through this earthly life ended on December 26, 2006, after 93 years.

Representative Hoover moved the adoption of the following **HR 17**:

HR 17, A RESOLUTION adjourning the House of Representatives in loving memory and honor of the late Gerald R. Ford, the 38th President of the United States of America, whose journey through this earthly life ended on December 26, 2006, after 93 years.

WHEREAS, there are moments that remind us that we are all Americans, regardless of political party, philosophy, or ideology, and the passing of a Commander in Chief brings us to one of those moments in time; and

WHEREAS, Gerald Rudolph Ford was born Leslie Lynch King, Jr., on July 13, 1913, the son of Leslie Lynch King and Dorothy Ayer Gardner King, in Omaha, Nebraska. Following the divorce of his parents and a move to Grand Rapids, Michigan, he was adopted by his new stepfather, and was later renamed Gerald Rudolph Ford. The future president grew up in a closely-knit family which included three younger half-brothers, Thomas, Richard, and James; and

WHEREAS, Gerald Ford excelled scholastically and athletically in high school, being named to the honor society and the All-City and All-State football teams. He was also active in scouting, achieving the rank of Eagle Scout in November of 1927. From 1931 to 1935, he attended the University of Michigan, majoring in economics and political science, and graduating in June of 1935. A gifted athlete, he played on the University's national championship football teams in 1932 and 1933, and was voted the Wolverines' most valuable player in 1934. In 1935, he played in the annual East-West College All-Star game for the benefit of the Shrine Crippled Children's Hospital, and in August, 1935, he played in the Chicago Tribune College All-Star football game at Soldier Field against the Chicago Bears; and

WHEREAS, Gerald Ford received offers to play football for the Detroit Lions and the Green Bay Packers, but chose instead to take a coaching position at Yale, with the hope of attending law school there. He was admitted in the spring of 1938, and earned his LL.B. degree in 1941, graduating in the top 25% of his class in spite of his full-time coaching duties. In April, 1942, the future Commander in Chief joined the U.S. Naval Reserve, receiving a commission as an ensign, first being assigned as a physical fitness instructor at a preflight school in Chapel Hill, North Carolina, and then, in 1943, he was assigned to the aircraft carrier *USS Monterey*, which took part in most of the major operations in the South Pacific. Nearly losing his life in a typhoon and resulting fire which severely damaged the ship, Ford was soon discharged as a lieutenant commander in February, 1946; and

WHEREAS, upon his return to Grand Rapids, Gerald Ford decided to challenge the isolationist incumbent Bartel Jonkman for the Republican nomination for the U.S. House of Representatives in the 1948 election, which he won handily, and went on to be elected to Congress on November 2, 1948, receiving 61% of the vote in the general election. During the campaign, Gerald Ford married Elizabeth Anne Bloomer Warren, and the couple would eventually have four children, Michael Gerald, John Gardner, Steven Meigs, and Susan Elizabeth; and

WHEREAS, Gerald R. Ford served in the House of Representatives from January 3, 1949 until December 6, 1973, being reelected 12 times, each time garnering more than 60% of the vote. As his reputation as a forthright and honest legislator flourished, he was mentioned as a possible running mate for Richard Nixon in 1960, but he remained in the House, where, in 1961, in a revolt of the "Young Turks," Ford defeated sixty-seven year old Charles Hoeven of Iowa to become Chairman of the House Republican Conference, the number three leadership position the party. In 1963, Congressman Ford was appointed by President Lyndon Johnson as a member of the Warren Commission, charged with the responsibility of investigating the assassination of President John F. Kennedy, and in 1965, he was elected minority leader of the House, a position he would hold for eight years; and

WHEREAS, in 1973, when Vice-President Spiro Agnew resigned his office after pleading no contest to a charge of income tax evasion, Gerald Ford was appointed to serve as Vice President by President Richard Nixon. Following intense scrutiny and a thorough background investigation by the FBI, Ford was confirmed and sworn into office on December 6, 1973. The following year, when it became apparent that President Nixon was facing the threat of impeachment due to circumstances surrounding the Watergate scandal, the president resigned, and on August 9, 1974, Gerald R. Ford, whose only ambition had been to be Speaker of the House of Representatives, was sworn in as the 38th President of the United States; and

WHEREAS, believing that protracted impeachment proceedings would only further divide an already crippled nation, President Ford stood firm against political pundits and critics, and a month after assuming office, formally granted a complete pardon to former President Nixon, hoping to heal the wounds of a disillusioned nation. While the decision to pardon the former president was unpopular among many, and probably exacted a heavy political price for President Ford, he never expressed regret for his action; and

WHEREAS, upon the passing of this great American, many have invoked words such as "decent," "capable," and "integrity" to describe Gerald R. Ford, perhaps it is most fitting to recall his own words spoken in August, 1974, upon becoming president: "My fellow Americans, our long national nightmare is over. Our Constitution works. Our great Republic is a government of laws and not of men. Here the people rule. As we bind up the internal wounds of Watergate, more painful and more poisonous than those of foreign wars, let us restore the Golden Rule to our political process and let brotherly love purge our hearts of suspicion and hate"; and

WHEREAS, Gerald R. Ford is survived by his loving and devoted wife of 58 years, Betty, who, as First Lady, exhibited great courage in her own right by openly discussing issues such as addiction, the emotional trauma of breast cancer, and the trials of rearing teenagers in the public eye; by his children, Michael, John, Steven, and Susan; and by several grandchildren and great-grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of loss upon the passing of the 38th President of the United States, Gerald R. Ford, and extends to his family and friends its sincere sympathy, and heartfelt gratitude for this extraordinary American's service to his country.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the late Gerald R. Ford, public servant.

Section 3. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to First Lady Betty Ford, office of Gerald R. Ford, P.O. Box 927, Rancho Mirage, California 92270, and to the Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, Michigan 48109.

There being no objection, **HR 17** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **HR 17** the vote was: **Yeas 100**. (See January 2, 2007, roll call to show co-sponsors on **HR** 17-Appendix.)

Representative Adkins moved that the Journal reflect that each member produced a Certificate of Election and that these certificates be confirmed. Agreed.

Representative Adkins moved to grant floor privileges to special guests. Agreed.

Representative Adkins moved the nomination of the following House Constitutional Officers to serve until midnight, December 31, 2007:

Chief Clerk	Jean Burgin
Asst. Clerk	Sandi Morris
Enrolling Clerk	Margaret Watts
Sergeant at Arms	George Fritz
Chief Doorkeeper	J. O. Whitaker
Cloakroom Keeper	Barry Holder
Janitor	Bob Goodwin
Janitor	Frank Smith

Representative Adkins moved that the nominations cease and the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by the Honorable Mary C. Noble, Justice of the Kentucky Supreme Court.

Representative Adkins moved that the reading of pre-filed bills by sponsor and title be waived and a list of these be spread upon the Journal. Agreed.

Introduction of Bills and Resolutions

HB 11, by Representative S. Lee: AN ACT relating to crimes and punishments.

HB 12, by Representative S. Lee: AN ACT relating to the official language of the Commonwealth.

HB 13, by Representative S. Lee: AN ACT relating to the display of the flag of the United States of America.

HB 14, by Representative Henley: AN ACT relating to the reference of historical time and dates.

HB 15, by Representative Keene: AN ACT relating to public safety.

HB 16, by Representative Wilkey: AN ACT relating to criminal record expungement.

HB 17, by Representatives Gray, Richards, Stacy, Yonts, A. Smith, Clark, Burch, and Weston: AN ACT relating to the minimum wage.

HB 18, by Representative Gooch: AN ACT relating to basic reparations benefits.

HB 19, by Representative S. Lee: AN ACT relating to civil rights.

HB 20, by Representative Henley: AN ACT relating to child protection.

HB 21, by Representative Nelson: AN ACT relating to the reference of historical time and dates.

HB 22, by Representative Crimm: AN ACT relating to failure to maintain security on a motor vehicle as required by Subtitle 39 of KRS Chapter 304.

HB 23, by Representatives Wayne, Siler, Brinkman, and Embry: AN ACT relating to nonprofit agencies and work centers serving the blind or severely disabled.

HB 24, by Representative Crimm: AN ACT relating to sales and use taxes.

HB 25, by Representative Meeks: AN ACT relating to investment of state funds.

HB 26, by Representative Montell: AN ACT relating to revenue and taxation.

HB 27, by Representatives Draud, Miller, Weston, Horlander, and Keene: AN ACT relating to gaming and making an appropriation therefor.

HB 28, by Representative S. Lee: AN ACT relating to crimes and punishments.

HB 29, by Representative Floyd: AN ACT relating to civil actions.

HB 30, by Representatives S. Lee, Floyd, and DeCesare: AN ACT relating to the Students with Special Needs Scholarship Program.

HB 31, by Representative Dedman: AN ACT relating to state employee annual increments.

HB 32, by Representative Montell: AN ACT relating to a student's license or permit to operate a motor vehicle.

HB 33, by Representative Henley: AN ACT relating to government contracts.

HB 34, by Representative Henley: AN ACT relating to crimes and punishments.

HB 35, by Representative Crimm: AN ACT relating to homeowner's insurance.

HB 36, by Representative Riner: AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

HB 37, by Representative Riner: AN ACT relating to the minimum wage.

HB 38, by Representative Wayne: AN ACT relating to motor vehicle insurance premium discounts.

HB 39, by Representative Siler: AN ACT relating to fire protection districts.

HB 40, by Representative Burch: AN ACT relating to the equine industry program and making an appropriation therefor.

HB 41, by Representative Embry: AN ACT relating to compulsive gambling and making an appropriation therefor.

HB 42, by Representative Embry: AN ACT relating to drug overdose prevention.

HB 43, by Representative Draud: AN ACT relating to circuit clerks.

HB 44, by Representative S. Lee: AN ACT relating to public contracts.

HB 45, by Representative Montell: AN ACT relating to volunteer fire department fuel expenses.

HB 46, by Representative Thompson: AN ACT relating to engineers.

HB 47, by Representative Floyd: AN ACT relating to contributions to the Commonwealth of Kentucky.

HB 48, by Representative S. Lee: AN ACT relating to health benefits provided by state universities and colleges.

HB 49, by Representative Montell: AN ACT relating to the destruction of animals.

HB 50, by Representative Higdon: AN ACT relating to local school board members.

HB 51, by Representative Thompson: AN ACT relating to Kentucky State Parks.

HB 52, by Representative Embry: AN ACT relating to hazardous duty retirement.

HB 53, by Representative Burch: AN ACT relating to booster seats.

HB 54, by Representatives Jenkins, Marzian, Owens, Burch, Weston, and Wayne: AN ACT relating to the minimum wage.

HB 55, by Representative Wayne: AN ACT relating to campaign finance, making an appropriation therefor, and declaring an emergency.

HB 56, by Representative Edmonds: AN ACT relating to retail credit cards.

HB 57, by Representative Edmonds: AN ACT relating to casualty insurance rates.

HB 58, by Representative Thompson: AN ACT relating to crimes and punishments.

HB 59, by Representative Thompson: AN ACT relating to operator's licenses.

HB 60, by Representative Damron: AN ACT relating to sales tax holidays and declaring an emergency.

HB 61, by Representative Pullin: AN ACT relating to criminal trespassing.

HB 62, by Representative Cherry: AN ACT relating to executive branch employees.

HB 63, by Representative Cherry: AN ACT relating to honoring military service.

HB 64, by Representative Cherry: AN ACT relating to the safety, learning, and well-being of students.

HB 65, by Representative Rand: AN ACT relating to real estate brokerage.

HB 66, by Representative Higdon: AN ACT relating to elections.

HB 67, by Representative Owens: AN ACT relating to restoration of civil rights.

HB 68, by Representative Owens: AN ACT relating to residential utilities.

HB 69, by Representative Arnold: AN ACT relating to economic development and declaring an emergency.

HB 70, by Representative Crenshaw: AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

HB 71, by Representative Edmonds: AN ACT designating bluegrass music as the official state music of Kentucky.

HB 72, by Representative Henley: AN ACT relating to the financing of highway and bridge projects.

HB 73, by Representative Henley: AN ACT relating to employment of unauthorized aliens.

HB 74, by Representative Henley: AN ACT relating to animal cruelty.

HB 75, by Representative Thompson: AN ACT relating to sales and use tax.

HB 76, by Representative Thompson: AN ACT relating to motor vehicle accidents.

HB 77, by Representative Pullin: AN ACT relating to crimes and punishments.

HB 78, by Representative Cherry: AN ACT relating to peace officer certification.

HB 79, by Representative Cherry: AN ACT relating to long-term care insurance rates.

HB 80, by Representative Crimm: AN ACT relating to communications excise tax, making an appropriation, and declaring an emergency.

HB 81, by Representative Denham: AN ACT relating to crimes and punishments.

HB 82, by Representative Denham: AN ACT relating to crimes and punishments.

HB 83, by Representative Denham: AN ACT relating to fiduciaries.

HB 84, by Representative Denham: AN ACT relating to crimes and punishments.

HB 85, by Representative Denham: AN ACT relating to terroristic threatening.

HB 86, by Representative Rand: AN ACT relating to real estate brokerage.

HB 87, by Representatives Floyd, DeCesare, S. Lee, Harmon, Farmer, Ford, and Comer: AN ACT relating to the limited liability entity tax.

HB 88, by Representatives Farmer, Floyd, Brinkman, DeWeese, S. Lee, Osborne, Wuchner, Fischer, Harmon, Mobley, DeCesare, Comer, Ford, Upchurch, and Hoover: AN ACT relating to the limited liability entity tax.

HB 89, by Representative Edmonds: AN ACT relating to transportation.

HB 90, by Representative Owens: AN ACT relating to limits on prepayment penalties in mortgages.

HB 91, by Representative Brinkman: AN ACT relating to treatments for autism spectrum disorders.

HB 92, by Representative Owens: AN ACT relating to deferred deposit transaction service fees charged to members of the Armed Forces, members of the National Guard or Reserve component or federal active duty, and their dependents.

HB 93, by Representative Crimm: AN ACT relating to animals.

HB 94, by Representative Pullin: AN ACT relating to methamphetamine contamination.

HB 95, by Representative Cherry: AN ACT relating to the school calendar.

HB 96, by Representative Draud: AN ACT relating to the Minority Educator Recruitment and Retention Scholarship Program.

HB 97, by Representative Draud: AN ACT relating to physical activity for students.

HB 98, by Representative Pullin: AN ACT relating to terms of imprisonment for capital offenses.

HB 99, by Representative Pullin: AN ACT relating to promotional increments for career employees.

HB 100, by Representative Pullin: AN ACT relating to postsecondary education.

HB 101, by Representative Pullin: AN ACT relating to teacher education.

HB 102, by Representative Pullin: AN ACT relating to the Kentucky Gas Pipeline Authority.

HB 103, by Representative Keene: AN ACT relating to live organ donation.

HB 104, by Representative Wayne: AN ACT relating to regional community mental health-mental retardation programs.

HB 105, by Representative Thompson: AN ACT relating to impersonating a veteran.

HB 106, by Representative C. Belcher: AN ACT relating to honoring military service through education benefits.

HB 107, by Representative Pullin: AN ACT relating to incompatible offices.

HB 108, by Representative Hoffman: AN ACT relating to the preservation of rock fences and making an appropriation therefor.

HB 109, by Representative Brinkman: AN ACT relating to autism spectrum disorders.

HB 110, by Representative Gray: AN ACT relating to marriage.

HB 111, by Representative Gray: AN ACT relating to property and casualty insurance rates.

HB 112, by Representative Burch: AN ACT relating to perinatal care.

HB 113, by Representatives Hoffman and Wayne: AN ACT relating to hybrid electric dual fuel vehicle credits.

HB 114, by Representative Pasley: AN ACT relating to jail canteen accounts.

HB 115, by Representative Meeks: AN ACT relating to local government.

HB 116, by Representative Meeks: AN ACT relating to the provision of services by county interlocal agreements making an appropriation therefor.

HB 117, by Representative Meeks: AN ACT relating to human remains and burial objects.

HB 118, by Representative Meeks: AN ACT relating to historic preservation.

HB 119, by Representative Denham: AN ACT relating to the limited liability entity tax.

HB 120, by Representative Wayne: AN ACT relating to farmers markets.

HB 121, by Representative Richards: AN ACT relating to state prisoners and making an appropriation therefor.

HB 122, by Representative Montell: AN ACT relating to the board of trustees of a fire protection district.

HB 123, by Representative Pullin: AN ACT relating to electric meters.

HB 124, by Representative Horlander: AN ACT relating to the cigarette excise tax.

HB 125, by Representatives Westrom and Damron: AN ACT relating to alcoholic beverages.

HB 126, by Representative Montell: AN ACT relating to long-term care insurance.

HB 127, by Representative Meeks: AN ACT relating to economic development.

HR 4, by Representative S. Lee: A RESOLUTION urging the U.S. Congress to pass the Public Expression of Religion Act of 2005 (H.R. 2679), which proposes to amend sections of the U.S. Code to limit relief for Establishment Clause actions.

HJR 5, by Representatives Vincent and Wilkey: A JOINT RESOLUTION naming the judicial center in Henderson County the "Gross Clay Lindsay Henderson County Judicial Center."

HCR 6, by Representative Riner: A CONCURRENT RESOLUTION urging United States Congress to support a national health policy to insure affordable, accessible health care for all, with a priority for poor families and children, the elderly, and persons with disabilities.

HJR 7, by Representatives Meeks and Osborne: A JOINT RESOLUTION directing the Education Cabinet to recognize and celebrate International Education Week.

HCR 8, by Representative Embry: A CONCURRENT RESOLUTION urging the Health and Family Services Cabinet to secure the safety of social workers.

HCR 9, by Representative Crimm: A CONCURRENT RESOLUTION creating the Charitable Gaming Oversight Task Force of the Legislative Research Commission.

HJR 10, by Representative Crimm: A JOINT RESOLUTION directing the Legislative Research Commission to create the Task Force on Local Government Insurance Premium Taxes to study the local government insurance premium tax system.

HJR 11, by Representative Marzian: A JOINT RESOLUTION relating to the inclusion of the Holocaust in the school curriculum.

HCR 12, by Representative Gray: A CONCURRENT RESOLUTION urging support of H.R. 6087, which would establish a two-year pilot program requiring the U.S. Army Corps of Engineers to maintain a summer water level of 359 feet in Lake Barkley through the first Monday in September.

HJR 13, by Representative Brinkman: A JOINT RESOLUTION directing the Kentucky Alzheimer's Disease and Related Disorders Advisory Council and the Office on Alzheimer's Disease and Related Disorders to assess the current and future impact of Alzheimer's disease in Kentucky, to examine the existing services and resources addressing the needs of persons with Alzheimer's disease and their families and caregivers, and to develop a strategy to mobilize a state response to this public health crisis.

HCR 14, by Representative Pullin: A CONCURRENT RESOLUTION creating an All-Terrain Vehicle (ATV) Usage Task Force.

HJR 15, by Representative Meeks: A JOINT RESOLUTION designating Interstate 75 as the "Tuskegee Airmen Trail."

HCR 16, by Representative Meeks: A CONCURRENT RESOLUTION urging the Congress of the United States to continue to press for strong measures to end the violence in the Sudan and urging the Securities and Exchange Commission to provide guidance to fund managers in order to avoid investments which may be supporting nations involved in the support of terrorism or human rights violations.

HB 128, by Representatives C. Belcher and Ballard: AN ACT relating to honoring military service through education benefits.

HB 129, by Representative C. Belcher: AN ACT relating to the Nicholas Hildreth School, and declaring an emergency.

HCR 18, by Representative Pullin: A CONCURRENT RESOLUTION encouraging the Kentucky Transportation Cabinet and the Kentucky Cabinet for Economic Development to promote and market the use of Amtrak rail passenger service and the communities which serve as Amtrak passenger stations.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 1, by Representative Richards: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2007 Regular Session with prayer.

HR 2, by Representative Richards: A RESOLUTION adopting the Rules of Procedure for the 2007 Regular Session of the House of Representatives.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved the adoption of the following **HR 1**:

HR 1, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2007 Regular Session with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Sergeant-at-Arms is directed to invite the pastors of the various churches in Frankfort to attend the meetings of the House of Representatives and open daily sessions of the 2007 Regular Session with prayer.

There being no objection, **HR 1** was adopted.

Representative Adkins moved the adoption of the following **HR 2**:

HR 2, A RESOLUTION adopting the Rules of Procedure for the 2007 Regular Session of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The following Rules of Procedure are adopted to govern the 2007 Regular Session of the House of Representatives.

Rule 1.Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2.Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3.Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The Clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of two-thirds of the members elected.

ORDER OF BUSINESS

Rule 4.Order of Business. The order of business shall be as follows:

1. Invocation.
2. Pledge of Allegiance.
3. Roll Call.
4. Reading and Approval of the Journal.
5. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
6. Report of Reference of Bills to Committees.
7. Report of Committees.
8. First Reading of Bills.
9. Second Reading of Bills.
10. Orders of the Day.
11. Motions, Petitions and Communications.
12. Announcements.
13. Adjournment.

No more than 30 minutes shall be allotted to Motions, Petitions and Communications.

Rule 5.Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6.Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7.Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8.Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote, unless the motion is made after the House has reached adjournment in the order of business under Rule 4, in which case adjournment shall be by voice vote unless a roll call is ordered by a majority of the members.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain a vote and shall not speak at all if the question is not a debatable question. The effect of the previous question shall be to put an end to debate on any pending amendment; to prevent the offering of additional amendments and to bring the House to an immediate vote upon any amendment that has been called and is in order. Once the previous question has been ordered, and any pending amendment has been voted upon, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes, before the vote upon the main question.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question, nor shall that motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken and the bill or resolution is in the possession of the House; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member. For purposes of this rule, a member who is recorded as "not voting" on a proposition which failed is considered to have voted on the prevailing side. Procedural motions, such as a motion to lay on the table or lay on the clerk's desk, shall not be subject to a motion to reconsider.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. **Reading of Pending Papers.** Any pending bill, resolution, motion or report shall be read upon the request of any member, with the concurrence of a majority of the members elected to the House, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. **Nominations.** In all elections a previous nomination shall be made.

MEMBERS

Rule 21. **Attendance of Members.** No member shall be absent from a session of the House without leave from the House.

Rule 22. **Decorum of Members.** No member shall designate another member by name.

Rule 22A. **Point of Personal Privilege.** To be in order, a point of personal privilege must relate to allegations regarding the rights, reputation, or conduct of a member personally, in the member's capacity as a representative, that, if true, would incapacitate them for membership. Members who have the floor after claiming a point of personal privilege shall confine themselves to defending their own rights, reputations, or conduct, and not those of other members. Members wishing to make general comments about pending legislation, media coverage, or other matters that would be out of order if raised as a point of personal privilege shall use Motions, Petitions, and Communications.

Rule 23. **Call to Order.** If any member, in speech or otherwise, transgresses the rules of order or decorum, the member shall immediately be called to order by the chair and shall be seated. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon the member until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. **Debate.** No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. **Members Shall Vote at Seats.** A member shall vote only when at the member's seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. **Duties of Speaker.** The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and the presiding officer's signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. **Appeal from Decision of Chair.** The Speaker while presiding may speak to points of order in preference to members. The Speaker shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize that member.

Any decision made by the Speaker shall be subject to appeal to the House. Every appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable. The ruling of the Speaker shall be sustained unless a majority of the members elected to the House oppose the ruling.

Rule 28. **Speaker Pro Tempore.** The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. **Duties of Legislative Research Commission.** The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; supervising the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. **Duties of Clerk.** The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with the Commission to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. **Journal of Proceedings.** The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and that Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. **Custody of Papers.** The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chair of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference. The Director of the Legislative Research Commission shall implement a policy to provide for the maintenance and distribution of the records, papers, and bills of the legislative branch.

Rule 32. **Accounts of Expenditures.** The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. **Printing of House Papers.** The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. **Duties of the Sergeant-at-Arms.** It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." The Sergeant-at-Arms shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. **Appointment and Conduct of Constitutional Employees.** The constitutional employees of the House shall be appointed by election during the regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of the employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. **Other Employees.** All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. **Committee on Committees.** There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chair, the Majority Floor Leader of the House, the Majority Whip, and the Minority Floor Leader of the House. The Speaker shall be Chair of the Committee and the majority of the Committee shall have full power to act on all matters referred to the Committee, either by these rules or by the action of the House. All bills and joint or concurrent resolutions shall, upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the ***third***[~~second~~] day in which the House is in session after the date of introduction. Simple resolutions shall be referred to the appropriate committee or the floor of the House, in accordance with Rule 64.

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. **Standing Committees.** The following shall be the standing committees of the House:

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Economic Development
5. Education
6. Elections, Constitutional Amendments and Intergovernmental Affairs
7. Health and Welfare
8. Judiciary
9. Labor and Industry
10. Licensing and Occupations
11. Local Government
12. Natural Resources and Environment
13. Seniors, Military Affairs and Public Safety
14. State Government
15. Tourism Development and Energy
16. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chair, Vice-Chairs and the members of all standing and special committees and shall fill any vacancies thereon. In making the appointments to standing committees, the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in that previous regular session. That appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chair in the preceding regular session shall select for reappointment the committee the member so chaired if the member wishes to be considered for the chairmanship of that committee; if another selection is made, the member shall not be reappointed chair of the committee which the member chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chair of a standing committee. A chair of a standing committee or statutory committee shall not serve as a member of the Committee on Appropriations and Revenue. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice-Chair shall act in the absence of the Chair. The Chair of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees, the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than 29 members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Small Business:** matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking; banks and trust companies; consumer loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and

mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Economic Development:** matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising.

5. **Education:** matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; universities and colleges; community colleges; regional education; educational television.

6. **Elections, Constitutional Amendments and Intergovernmental Affairs:** matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purging of voters; regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absentee ballots; intergovernmental cooperation; state-federal relations; interstate compacts.

7. **Health and Welfare:** matters pertaining to human development, health, and welfare; delivery of health services; support of dependents; public assistance; child welfare; adoptions; children's homes; disabled persons; family welfare; aid to the blind; commitment and care of children; mental health; substance abuse; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics, and long-term care facilities; health professions; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; psychologists; optometrists, ophthalmic dispensers; physical therapists.

8. **Judiciary:** matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, circuit courts and district courts; family courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries, attorneys; receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional facilities; civil rights; and juvenile matters.

9. **Labor and Industry:** matters pertaining to the work-force and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

10. **Licensing and Occupations:** matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and agents public accountants; detection of deception examiners; auctioneers; business schools; warehouses; partnerships; trade practices.

11. **Local Government:** matters pertaining to the officers, organization, government and financing of city and county governments; city and county imposed taxes and licenses; special purpose assessment and taxing districts within a city; city revenue bond projects; city indebtedness; incorporation and classification of cities; forms of city government; charter county, urban-county, and consolidated local governments generally; county and special district debt; city and county finances and revenue; the imposition of duties and costs on cities and counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of city and county officers and employees; local government civil service systems and local government retirement systems; planning and zoning; interlocal cooperation and consolidation of local government services; county roads; public road districts; city streets and sidewalks; housing; manufactured housing; urban renewal and redevelopment; water districts; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; fire protection districts; police departments, fire departments and local public safety agencies; issuance of bonds for county and special district projects; sewers; metropolitan sewer and sanitation districts; local air pollution control districts; city and county libraries; library districts; annexation of territory; public works; parks and playgrounds.

12. **Natural Resources and Environment:** matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil,

gas and salt water wells; state and national parks; drainage districts; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

13. **Seniors, Military Affairs and Public Safety:** matters pertaining to senior citizens; eliminating age discrimination; non-public sector retirement; problems of aging; violent acts against the elderly; military affairs and civil defense; national guard; veterans; retention of military bases; veterans' rights, benefits and education; veterans' nursing homes; military memorials and cemeteries; fire prevention and protection; foods, drugs and poisons; pure foods and drugs; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; garbage and refuse disposal.

14. **State Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; administrative organization; administrative regulations; administrative agencies; Department of Law; constitutional offices; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; disaster and emergency services; state and regional planning; libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

15. **Tourism Development and Energy:** matters relating to tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism Cabinet; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development; energy waste disposal; Public Service Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol.

16. **Transportation:** matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Transportation Cabinet; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chair, the Majority Whip, the Minority Floor Leader, the Minority Caucus Chair, the Minority Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. If a bill which includes incarceration as a possible penalty has been received by the Rules Committee from a standing committee other than the Committee on Judiciary, the bill shall be referred to the Committee on Judiciary. No bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the media only. No electronic devices of any nature, including cameras and recording devices, shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five legislative days. Within that time, each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which the member is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall be the Chair of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order the Majority Floor Leader deems proper and shall be recognized by the Speaker for that purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chair in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection;
2. Subcommittee on Education;

3. Subcommittee on General Government, Finance and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

On four of the subcommittees, as designated by the Committee on Committees, four members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee, and three members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. On the remaining two subcommittees, either three or four members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House, and the remaining members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee. A member of the Committee on Appropriations and Revenue may, however, serve on no more than one standing subcommittee. The chair of each standing subcommittee shall be appointed by the chair of the Committee on Appropriations and Revenue from the membership of that committee on the particular standing subcommittee.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before a standing subcommittee.

The Committee on Committees may assign the chair of a standing committee as an ex officio non-voting member of a standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions.

Rule 44. Conference Committees. When a House bill has been amended in the Senate and the House refuses to concur in the amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in the amendment and when neither will recede from that action, the Committee on Committees shall appoint a Conference Committee to meet a like committee from the Senate. The Conference Committee shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a conference committee report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a free conference committee, consisting of three or more members. A free conference committee shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

A conference committee or free conference committee report shall be signed by a majority from each house or it shall not be in order.

Where both majority and minority conference or free conference reports are submitted, a motion to adopt the majority report shall first be considered and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails. Once the majority or minority report is adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 44A. Majority and Minority Caucuses. The Majority Caucus of the House of Representatives shall consist of all House members of majority party affiliation. The Minority Caucus of the House of Representatives shall consist of all House members of minority party affiliation. The majority and minority caucuses of the House of Representatives shall be committees, other than standing committees, of the House of Representatives and General Assembly.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Enrollment Committee and a Conference Committee between the House and the Senate shall sit while the House is in session, unless by consent of the

House. The Committee on Committees and Enrollment Committee may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairs, shall schedule a definite time and place for the regular weekly meetings of each committee, and that schedule shall be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. The Chair or a majority of any committee may call a special meeting in addition to those regularly scheduled.

The Chair shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. A standing committee may report a bill or resolution in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Standing and Special Committee Reports. It shall require a majority of the committee membership to report a bill or resolution. The chair shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chair may sign reports on behalf of a majority of the committee members. The chair's signature shall attest to the action of a majority, but shall not be construed as the chair's personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read. Where both majority and minority reports are submitted, a motion to adopt the majority report shall first be considered, and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails.

Rule 48. Discharge Petition. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, a member may sponsor and file with the Clerk a written request, signed by twenty-five or more members, to call the same up for consideration on the next succeeding legislative day after the filing of the request. The effect of this petition shall be to bring before the House the question of whether the committee to which the bill has been assigned has held the bill for an unreasonable time. Upon the motion of the member sponsoring the request, and if a majority of the members elected to the House concur that the bill has been held an unreasonable time, the bill shall be considered as though it had been regularly reported, and sent to the Rules Committee.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chair, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting, provided that no bill or resolution shall be posted by the chair or the committee by a majority vote unless and until a request for posting form has been filed with the committee chair or secretary and approved by the committee chair as containing satisfactory information. No measure shall be considered except those posted, unless the measure is one which has been recommitted to the same committee from which it was previously reported with a favorable expression. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chair or the committee shall occur during the first week of the session, and those bills may be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for those prefiled bills.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as six distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used by committees; two copies shall be for the use of the media and shall be given to a person designated by the media; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the elimination of matter in an existing law, that elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be eliminated with a single line so as not to render those words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes, the sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each section as it appears in the Kentucky Revised Statutes. All bills recommending or reauthorizing a study by an interim committee, task force, or special committee of the Legislative Research Commission shall include the following language: "Provisions of this statute to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date." The Legislative Research Commission staff shall see that all bills introduced have been prepared through the computerized bill preparation system of the Legislative Research Commission.

Rule 51. Introduction of Bills. A member may introduce bills and resolutions by filing them with the House Clerk on the floor or in the Clerk's office at any time the office is open. The member filing the bill or resolution shall be the primary sponsor of the bill or resolution, and with the sponsor's permission, one member may sign the bill as primary co-sponsor. Other members may co-sponsor the bill or resolution only with the sponsor's permission and by filing the proper papers with the Clerk. A co-sponsor may withdraw co-sponsorship of the bill or resolution with or without the sponsor's permission by filing the proper papers with the Clerk. Bills and resolutions filed after the House has concluded the Introduction and Reading of New Bills, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The House Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee.

In a regular session in an even-numbered year, no bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. In a regular session in an odd-numbered year, no bill or resolution having the force of law shall be introduced after the fourteenth legislative day of the session.

The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Statement. A sponsor of a bill which, if enacted, would affect the revenues or expenditures of state government generally, may at any time by request cause the staff of the Legislative Research Commission to analyze and prepare a fiscal statement for the measure. The staff of the Legislative Research Commission shall analyze and prepare a fiscal statement for any bill which, if enacted, would fiscally affect local governments through the imposition of a local mandate; constitute a mandated health benefit; change the financial liability of any public retirement system administered by an agency of state government; or fiscally affect state or local corrections services in a significant manner, including any bill which would modify or create a criminal penalty or otherwise affect the population of a correctional system or facility.

The chair of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to posting. The chair or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill, or amendment thereof, prior to final committee action.

Members may require, by majority vote, that a fiscal statement be attached to any bill or amendment on the Orders of the Day relating to fiscal matters herein described. In that instance, the fiscal statement shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.

Rule 53. Fiscal Statements for Amendments. Any member proposing an amendment which relates to fiscal matters described in Rule 52 may cause a fiscal statement to be prepared. A fiscal statement shall be considered a public document upon introduction of the bill or amendment for which it was prepared.

Rule 54. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the third day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it shall be referred to the Rules Committee. In these instances, the Clerk shall distribute copies of the bill and its proposed amendment to each member of the Rules Committee. The Rules Committee may post these bills to the Orders of the Day for consideration of the amendment, and final passage, giving precedence to these bills over all other matters posted. When bills with amendments for concurrence are reached in the Orders of the Day, the Speaker shall first put the question of concurrence in the amendment, whereupon if that is favorable, the bill shall be put immediately upon its final passage. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 55. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least 200 copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 56. Readings of Bills. If a bill is reported with the expression of opinion that it should not pass, a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 57. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from the committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in that Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chair.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of those bills to the Consent Orders for a day certain. On that day, the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in those Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chair. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff a "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, the bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 58. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their first reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members. No bill, amendment, or committee substitute relating to congressional or legislative redistricting shall be taken from the Orders of the Day unless it shall have been verified by Legislative Research Commission staff using the Commission's redistricting software, for plan integrity and geographic integrity. The verification shall be evidenced by the Legislative Record summary notation "PLAN INTEGRITY VERIFIED" and the "Geographic Integrity Verified" notation on amendments.

Rule 59. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, or a Senate bill has been amended in the House, but the Senate refuses to concur, and the House recedes from its amendment, the bill shall immediately be placed upon its passage.

Rule 60. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. An amendment prepared for one member but signed by another shall be considered the amendment of the member signing the amendment. All amendments shall give the proper page and line of the printed bill. An original and six copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a bill under consideration containing the substantial text of the language of any other bill introduced during the session shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause those amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of any other bill introduced during the session, the Speaker shall rule thereon, subject to appeal to the House.

A committee substitute, upon its adoption, shall be considered as the original bill for purposes relating to the permissible degree of further amendment of the bill.

A proposal to amend the title of a bill shall be by separate title amendment. The question of adoption of an offered title amendment for a bill shall be presented to the body immediately after adoption of the bill.

A proposal to amend the Constitution of Kentucky shall be introduced as a bill, and no such proposal shall be in order if it is offered as an amendment to any bill.

If a proposed floor amendment to a branch budget bill will result, if adopted, in a loss of revenues or an increase in expenditures for a budget unit, the amendment shall specify by budget unit the amount and source of funds that will offset the loss of revenues or specify the budget unit or other source of funds that will support the increased expenditures. If a budget unit or other source of funds is specified, the amendment shall include all necessary language to effect the changes. It shall be out of order for a floor amendment to a branch budget bill to: (a) specify in general language that funds to support the change shall come from broadly defined sources, such as the budget of a particular cabinet, branch of government, or multiple unrelated budget units, unless the effect on each of these is specifically defined by program and amount; (b) require or permit any other branch or unit of government to determine which specific programs would be affected; or (c) reduce the Budget Reserve Trust Fund.

Rule 61. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by the Clerk, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 62. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

If a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross those amendments in the original copy of the bill by typing or may generate a replacement original copy of the House bill through computerized process, before delivering the bill to the Enrolling Clerk of the House.

In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy can be produced, the Enrolling Clerk may enroll the bill or resolution by typing the same.

The original bill or resolution or replacement therefor, if applicable, and an enrolled copy shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each is in the exact form as finally passed prior to their delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 63. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chair of the Enrollment Committee of the Senate for presentation to the President of the Senate for the President's signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for the Governor's approval and take a receipt for same.

Rule 64. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. A simple resolution expressing the will of the House shall upon its introduction be automatically referred to the Committee on Committees, which may refer it to the floor if it is honorary, benevolent, and does not direct further action; otherwise, it shall be referred to a standing committee. Simple resolutions referred to a standing committee may be considered for adoption only after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. A resolution shall not be accepted for introduction if offered in lieu of a legislative citation. No resolution shall be considered unless it shall have been distributed to all members. All resolutions recommending or reauthorizing a study by an interim committee, task force, or special committee of the Legislative Research Commission shall include the following language: "Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date." All resolutions recommending or reauthorizing a study, or which recommend or reauthorize creation of a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 65. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Staff of the Legislative Research Commission shall prepare proposed legislative citations for adoption by the House and shall assign those citations a number. The sponsor shall receive the original citation and a copy shall also be transmitted to the Clerk of the House prior to adoption. Each citation shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications."

VOTING

Rule 66. Roll Call. Any member, with a second, may require a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, that vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 67. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of the question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining a vote. No member shall be allowed to speak more than three minutes to explain a vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change their vote?" and, after sufficient pause, shall lock the roll call system and instruct the Clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of the member's individual vote as registered opposite the member's name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The Clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

With respect to any roll call vote on a question that is not on the passage of a bill, adoption of an amendment or committee substitute, concurrence or recession from a Senate amendment, adoption of a conference committee or free conference committee report, or override of a gubernatorial veto, the electrical voting system shall indicate that the question subject of the roll call vote is procedural in nature, and the roll call vote shall be described as a procedural vote on the original roll call sheet and on all duplicates.

Rule 68. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to any penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in a manner as the House may determine. If a person not a member shall vote or attempt to vote for any member, that person shall be barred from the floor of the House for the remainder of the session and may be further punished in any manner as the House may deem proper, in addition to the punishment as may be prescribed by law.

Rule 69. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 70. **Adjournment Extended During Roll Call.** When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after the yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 71. **Persons Entitled to the Floor.** No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide news media correspondents shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a media section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the gallery not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 72. **Restriction of lobbying and access to the House Chambers and office areas.** No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House gallery by any person.

A sign, poster, or any other object, the purpose of which can be reasonably construed to indicate support or opposition to any measure before the House, and which is large enough to be generally visible from the House floor, shall not be permitted in the gallery.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from a member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol and the third and fourth floors of the Capitol Annex.

Rule 73. **Restrictions.** For purposes of this rule, "material" shall mean any letter, report, writing, article, booklet, pamphlet, image, photograph, object, or any other item, including any physical object or electronic transmission containing audio, video, or electronic communication, which is requested to be placed upon either the desk of a member on the House floor or in a member's office in the Annex. This material shall not be distributed unless the party interested in the distribution of the material is clearly and physically identified on the material to be distributed. All this material shall conform to accepted public taste, shall contain no matter appealing to prurient interest or without redeeming social value, and shall uphold the dignity of the legislative process. Material originating from the general public shall be delivered to the administrative offices of the Legislative Research Commission or the Clerk of the House and shall upon direction of the Clerk, after inspection, be placed on the members' desk in the Capitol Annex provided the following conditions are met:

(1) Unless 100 copies are provided, all material should be individually addressed to each member expected to receive a copy;

(2) If several pages or items are to be provided to each member, they should be securely fastened or placed together in an envelope; and

(3) Sufficient copies of all material should be provided; staff shall not make additional copies of material.

Material that may be distributed by the Clerk in the House Chamber is restricted to official communications relating to pending legislation or the operation of the House, material sent by a member clearly identified on the face of the material or its attachments to any other member, or other material as designated by the Speaker's Office. The Sergeant-at-Arms shall be charged with the duty of ensuring that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of materials shall be referred to the Committee on Committees for resolution. Any material distributed by unauthorized individuals shall be collected from the members' desks and treated as litter, and any material submitted but not distributed that is unclaimed after one week shall be discarded. Material which is received via e-mail or received on diskette with a request for distribution electronically by LRC staff shall be refused or returned to the sender. Nothing in this rule restricts the right of any person to communicate directly with any member, either electronically or through the United States mail.

RULES

Rule 74. **Mason's Manual.** In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 75. **Change of Rules.** The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

There being no objection, **HR 2** was adopted.

Representative Adkins announced that there would be a prayer service for President Ford at 1:30 p.m. in the Rotunda of the Capitol.

Representative Adkins announced that their would be a reception for new members at 2:00 p.m. on the second floor of the Capitol.

Representative Adkins announced that there would be ethics training on Wednesday and Thursday from 9:00 a.m. until 10:30 a.m. in Room 171 of the Capitol Annex.

Representative Adkins moved that the House adjourn.

Representative Adkins withdrew the motion that the House adjourn.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 130, by Representative Collins: AN ACT relating to reorganization.

HB 131, by Representative Yonts: AN ACT relating to elections.

HB 132, by Representative Yonts: AN ACT relating to compensation of elected officials.

HB 133, by Representative Yonts: AN ACT relating to mine safety.

HB 134, by Representative Yonts: AN ACT relating to railroad security.

HB 135, by Representative Yonts: AN ACT relating to elections.

HB 136, by Representatives Pasley and Moberly: AN ACT relating to the Kentucky Soil and Water Conservation Commission.

HB 137, by Representative Yonts: AN ACT relating to petroleum storage tanks and declaring an emergency.

HB 138, by Representative Keene: AN ACT relating to alcoholic beverages.

HB 139, by Representative Keene: AN ACT relating to civil actions.

HB 140, by Representative Baugh: AN ACT relating to crimes and punishments.

HB 141, by Representative Stein: AN ACT relating to long-term care.

HB 142, by Representative Stein: AN ACT relating to impaired adults.

HB 143, by Representative Stein: AN ACT relating to human papillomavirus immunizations.

HB 144, by Representative Nelson: AN ACT relating to motor vehicle registration.

HB 145, by Representatives Pasley and Greer: AN ACT relating to school attendance.

HB 146, by Representative Nelson: AN ACT proposing to amend Section 170 of the Constitution of Kentucky to allow the General Assembly to increase the property tax exemption for disabled veterans.

HB 147, by Representative Nelson: AN ACT relating to motor vehicle registration.

HB 148, by Representative Nelson: AN ACT relating to unauthorized aliens.

HB 149, by Representative Yonts: AN ACT relating to crimes and punishments.

HB 150, by Representative Burch: AN ACT relating to crimes and punishments.

HB 151, by Representative Burch: AN ACT relating to drug testing.

HB 152, by Representative Marzian: AN ACT relating to trauma care, and making an appropriation therefor.

HB 153, by Representative Wayne: AN ACT relating to charges for utilities in manufactured home communities.

HB 154, by Representative Wayne: AN ACT relating to the rental and occupancy of lots in manufactured home communities.

HB 155, by Representative Wayne: AN ACT relating to memorials.

HB 156, by Representative Wayne: AN ACT relating to charitable gaming.

HB 157, by Representative Wayne: AN ACT relating to the rental and occupancy of lots in manufactured home communities.

HB 158, by Representative Fischer: AN ACT relating to an academic bill of rights for postsecondary education students, faculty, and instructors.

HB 159, by Representative Fischer: AN ACT relating to accounting for the expenditure of state funds.

HB 160, by Representative Edmonds: AN ACT relating to school employees.

HB 161, by Representative Edmonds: AN ACT relating to the extended weight coal haul road system.

HB 162, by Representative Henley: AN ACT relating to public assistance.

HB 163, by Representative Henley: AN ACT relating to crimes and punishments.

HB 164, by Representative Henley: AN ACT relating to crimes and punishments.

HB 165, by Representative McKee: AN ACT relating to assault.

HB 166, by Representative Henley: AN ACT relating to immigration services.

HB 167, by Representatives Siler and Miller: AN ACT relating to Kentucky State Parks.

HB 168, by Representatives Siler and Miller: AN ACT relating to the provision of fire protection services across jurisdictional boundaries.

HB 169, by Representative B. Smith: AN ACT relating to traffic regulations.

HB 170, by Representative Ballard: AN ACT relating to honoring military service.

HB 171, by Representative Ford: AN ACT relating to property taxes.

HB 172, by Representative Nelson: AN ACT relating to railroad worker safety.

HB 173, by Representatives Meeks, Jenkins, Clark, Marzian, Weston, Crimm, Miller, Owens, Wayne, Osborne, Riner, DeWeese, Firkins, Bratcher, Brinkman, and Riggs: AN ACT relating to the designation of the Louisville Orchestra as the official state orchestra.

HB 174, by Representative Floyd: AN ACT relating to the minimum age for students entering the primary program.

HB 175, by Representatives Westrom and Draud: AN ACT relating to crimes and punishment.

HCR 19, by Representative Nelson: A CONCURRENT RESOLUTION directing a study of the cost of textbooks.

HR 20, by Representative Burch: A RESOLUTION adjourning the House of Representatives in honor of Patrick Henry Hughes for his outstanding accomplishments and dedication to excellence in the face of adversity.

HR 21, by Representative Higdon: A RESOLUTION adjourning the House of Representatives in loving memory and honor of our friend and former colleague, David Ross Hourigan.

HR 22, by Representative B. Smith: A RESOLUTION recognizing February 22, 2007, as "Steve Irwin Day" in the Commonwealth of Kentucky.

HJR 23, by Representative Ballard: A JOINT RESOLUTION renaming the White City Wildlife Management Area the Joseph Fay Britt-White City Wildlife Management Area.

Announcements

Majority Caucus, 3:00 p.m., Wednesday, January 3, 2007, Room 169

Minority Caucus, 3:00 p.m., Wednesday, January 3, 2007, Room 131

Adjournment

Representative Adkins moved to adjourn until the hour of 11:00 a.m. on Wednesday, January 3, 2007.

The motion that the House adjourn until 11:00 a.m., Wednesday, January 3, 2007, was adopted by voice vote.

WEDNESDAY, JANUARY 3, 2007

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Louis Newby, First Corinthian Baptist Church, Frankfort, Kentucky.

Presentation of the Flags by the Marion County Junior ROTC, guests of Representative Higdon.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of January 2, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Speaker Richards vacated the chair.

Chief Clerk, Jean Burgin, assumed the chair.

Representative Thompson moved the nomination of Representative Richards for Speaker of the House of Representatives. Agreed.

Representative Thompson moved that nominations cease and Representative Richards be elected by acclamation. Agreed.

Representatives Jenkins, Owens, Yonts, Greer, Collins, Firkins, Rand, and Graham escorted the newly elected Speaker to the podium.

The oath of office was administered to the newly elected Speaker by the Honorable John D. Minton, Jr., Justice of the Kentucky Supreme Court.

Speaker Richards resumed the chair.

Representative Jenkins moved the nomination of Representative Clark for Speaker Pro Tem. Agreed.

Representative Jenkins moved that nominations cease and Representative Clark be elected by acclamation. Agreed.

Representatives Jenkins, Edmonds, McKee, Keene, Owens, and Cherry escorted the newly elected Speaker Pro Tem to the podium.

The oath of office was administered to the newly elected Speaker Pro Tem by the Honorable Joseph E. Lambert, Chief Justice, of the Kentucky Supreme Court.

Representative Hoffman announced the Majority Leadership:

Representative Adkins - Majority Floor Leader

Representative Wilkey - Majority Whip

Representative Hoffman - Majority Caucus Chairman

Representative DeWeese announced the Minority Leadership:

Representative Hoover - Minority Floor Leader

Representative S. Lee - Minority Whip

Representative DeWeese - Minority Caucus Chairman

Representative Adkins moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 3, by Representative Richards: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Representative Adkins moved the adoption of the following **HR 3**:

HR 3, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Speaker of the House of Representatives shall appoint a committee of the House to join a like committee from the Senate to wait upon the Governor and inform him that the 2007 Regular Session of the General Assembly is prepared to receive any message he may care to deliver.

There being no objection, **HR 3** was adopted.

The following Committee has been appointed to wait upon the Governor:

Representative C. Belcher

Representative Rand

Representative Hall

Representative Henley

Representative Turner

Representative Meeks

Introduction of Bills and Resolutions (Continued)

HR 24, by Representative Vincent: A RESOLUTION adjourning the House of Representatives in honor of Kentuckian and Major League Baseball player Brandon Webb, winner of the 2006 National League Cy Young Award.

HB 176, by Representatives Hall, Edmonds, and McKee: AN ACT relating to crimes and punishments.

HB 177, by Representative Draud: AN ACT changing the classification of the City of Crestview Hills, in Kenton County.

HCR 25, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Jennifer L. Forgy to the Education Professional Standards Board.

HCR 26, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Judith H. Gibbons to the Kentucky Board of Education.

HCR 27, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Ann E. Carty to the Education Professional Standards Board.

HCR 28, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Wayne Mattingly to the Kentucky Agricultural Development Board.

HCR 29, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Franklin D. Cheatham to the Education Professional Standards Board.

HCR 30, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Wayne Hunt to the Kentucky Agricultural Development Board.

HCR 31, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Cynthia W. York to the Education Professional Standards Board.

HCR 32, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Zenaida M. Smith to the Education Professional Standards Board.

HR 35, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Heidi Michelle Tolle.

HR 36, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Janice Marie Haitz Jett, who departed this life on Monday, January 1, 2007, at the age of 67 years.

HCR 33, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Vickie Yates Brown to the Kentucky Agricultural Development Board.

HR 34, by Representative Nesler: A RESOLUTION recognizing September 21 as Myositis Awareness Day in Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 49, 93, 120**

Appropriations and Revenue: **HB 24, 26, 40, 47, 60, 68, 75, 80, 87, 88, 113, 119, 121, 159, 171**

Banking and Insurance: **HB 18, 22, 35, 38, 56, 57, 79, 83, 90, 111, 126, HJR 10**

Economic Development: **HB 69, 127**

Education: **HB 14, 21, 30, 32, 50, 64, 95, 96, 97, 100, 101, 145, 158, 160, 174, HCR 19, HJR 7, 11**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 36, 55, 66, 70, 131, 132, 135, 146**

Health and Welfare: **HB 41, 42, 53, 91, 103, 104, 109, 112, 141, 142, 143, 151, 152, 162, HCR 6, 8, HJR 13**

Judiciary: **HB 15, 16, 20, 28, 29, 34, 58, 61, 67, 74, 76, 77, 81, 84, 85, 98, 110, 125, 139, 140, 149, 150, 163, 165, 175, HJR 5**

Labor and Industry: **HB 17, 37, 54**

Licensing and Occupations: **HB 46, 65, 86, 124, 138, 156, HCR 9**

Local Government: **HB 39, 45, 114, 115, 116, 117, 122, 153, 154, 157, 168, 118**

Natural Resources and Environment: **HB 133, 136, 137**

Seniors, Military Affairs and Public Safety: **HB 51, 59, 63, 92, 94, 105, 106, 128, 167, 170**

State Government: **HB 23, 25, 31, 33, 43, 44, 62, 71, 78, 99, 130, 173, HCR 16**

Tourism Development and Energy: **HB 102, 108, 123, 129, HCR 12, HJR 23**

Transportation: **HB 89, 134, 144, 147, 155, 161, 169, 172, HCR 18, HJR 15**

House Floor: **HR 20, 21, 22**

Motions, Petitions, and Communications

Representative Burch moved that the rules be suspended to act on a Resolution. Agreed.

Representative Burch moved the adoption of the following **HR 20**:

HR 20, A RESOLUTION adjourning the House of Representatives in honor of Patrick Henry Hughes for his outstanding accomplishments and dedication to excellence in the face of adversity.

WHEREAS, Patrick Henry Hughes was born without eyes or the ability to walk, and had two steel rods surgically attached to his spine in an effort to correct the effects of scoliosis; and

WHEREAS, Patrick Hughes, from an early age, showed an extraordinary love of music and its soothing qualities, and even as an infant, he would become calm as his father laid him on the family piano and played for him. Refusing to allow his physical challenges to steal his dreams, Patrick has become a master of the piano, trumpet, and voice, exhibiting his talent, nationally and internationally, on network television, and in venues such as National Public Radio, the Kennedy Center, the Grand Ole Opry, and the 2004 Republican National Convention at Madison Square Garden; and

WHEREAS, Patrick Hughes was named to the All State Chorus and All State Band as a student at Atherton High School, as well as achieving a 3.99 grade point average and becoming a member of the National Honor Society. Now, a member of the University of Louisville Pep Band and the University of Louisville Marching Band, Patrick performs on and off the field, with the aid of his father who pushes Patrick's wheelchair, enabling him to maneuver through complex shifting formations; and

WHEREAS, Patrick Hughes also helps others by performing for the WHAS-TV Crusade for Children and the Metro United Way campaigns, among other worthwhile causes, and his is an example to all of the fruits of hard work and determination, and is an inspiration to all who know of his amazing journey;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby applaud the accomplishments and strong character of Patrick Henry Hughes, and honors his zest for life and his determination to overcoming adversity.

Section 2. When the House of Representatives adjourns this day, it does so in honor of this outstanding young Kentuckian, Patrick Henry Hughes.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Patrick Henry Hughes, 2115 Buechel Bank Road, Louisville, Kentucky 40218.

There being no objection, **HR 20** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **HR 20** the vote was: **Yeas 100.** (See January 3, 2007, roll call to show co-sponsors on **HR 20**-Appendix.)

Representative Denham moved that the rules be suspended to act on Resolutions. Agreed.

Representative Denham moved the adoption of the following **HR 35**:

HR 35, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Heidi Michelle Tolle.

WHEREAS, Heidi Michelle Tolle was born in Maysville, Kentucky, on August 15, 1971, the daughter of Jerry and Linda Hiles Tolle, and departed this life on December 30, 2006; and

WHEREAS, Ms. Tolle was a graduate of Maysville High School, Northern Kentucky University, and was the salutatorian of her class at the Great Oak School of Nursing. She was honorably discharged from the United States Army Reserves, and before beginning her nursing career at Hospice of Cincinnati, she was the athletic director for St. Joseph Orphanage where she enjoyed working with and teaching children; and

WHEREAS, in addition to her parents, Ms. Tolle is survived by her brother, Kenneth Christopher Tolle; a niece, Jessica Lynn Tolle; several aunts, uncles, and cousins; and her close friends Carla Allie, Natalie Fields, and Tara Clos. She was preceded in death by her grandparents, Thurman and Virginia Catron Hiles, and Gus and Iva Carpenter Tolle;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of Heidi Michelle Tolle, and extends its sincere condolences to her family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Heidi Michelle Tolle.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. and Mrs. Jerry and Linda Tolle, 427 West 2nd Street, Maysville, Kentucky 41056.

There being no objection, **HR 35** was adopted.

Representative B. Smith moved that the rules be suspended to act on a Resolution. Agreed.

Representative B. Smith moved the adoption of the following **HR 22**:

HR 22, A RESOLUTION recognizing February 22, 2007, as "Steve Irwin Day" in the Commonwealth of Kentucky.

WHEREAS, Steve Irwin, the "Crocodile Hunter," was an international wildlife icon and a passionate conservationist who brought joy and learning about the natural world to millions of people across the globe; and

WHEREAS, Steve Irwin was born on February 22, 1962, at Essendon in Melbourne, Australia, and began his wildlife career at an early age at his parents' Beerway Reptile Park in Queensland, where he began to learn how to capture crocodiles; and

WHEREAS, in 1991, Irwin took over running the park, now renamed the Australia Zoo, and filmed the first episode of the television show, "The Crocodile Hunter," while on his honeymoon in 1992; and

WHEREAS, under Irwin's leadership, his operations grew to include the zoo, the television series, The Steve Irwin Conservation Foundation (now renamed Wildlife Warriors Worldwide), and International Crocodile Rescue; and

WHEREAS, throughout his success as the "Crocodile Hunter," Irwin never harmed or hunted any animal, and donated the money he earned from his television work to conservation and education programs; and

WHEREAS, Irwin's lovable and charismatic manner and infectious enthusiasm made him a hero to millions, especially children, and helped spark a renewed interest in wildlife conservation around the world; and

WHEREAS, February 22, 2007, would have been Steve Irwin's 45th birthday;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives recognizes February 22, 2007, as "Steve Irwin Day" in Kentucky and urges all citizens to take cognizance of this event and participate fittingly in its observance.

There being no objection, **HR 22** was adopted.

Representative Denham moved the adoption of the following **HR 36**:

HR 36, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Janice Marie Haitz Jett, who departed this life on Monday, January 1, 2007, at the age of 67 years.

WHEREAS, Janice Marie Haitz Jett was born on December 12, 1939, in Ripley, Ohio, the daughter of Dorothy Germann Haitz and the late Virgil Haitz. She was a bookkeeper for the Bracken County Ambulance service, and the wife of former Bracken County Judge-Executive Dwayne "Pie" Jett, whom she married on January 21, 1961; and

WHEREAS, in addition to her mother and husband, Mrs. Jett is survived by a daughter, Jennifer Moffett of Ripley, Ohio; a brother, John Haitz, also of Ripley; a sister, Arlene Camacho of Dayton, Ohio; two grandchildren, Brandon Black of Brooksville, Kentucky, and Trevor Moffett of Ripley; a great-grandchild, Bryan Black; and a special friend, Jenny Baird;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sincere sympathy upon the passing of Janice Marie Haitz Jett, and extends to her family, friends, and community its deepest condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Janice Marie Haitz Jett.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Dwayne "Pie" Jett, 331 West Miami Street, Brooksville, Kentucky 41004-8103.

There being no objection, **HR 36** was adopted.

Representative Higdon moved that the rules be suspended to act on a Resolution. Agreed.

Representative Higdon moved the adoption of the following **HR 21**:

HR 21, A RESOLUTION adjourning the House of Representatives in loving memory and honor of our friend and former colleague, David Ross Hourigan.

WHEREAS, Dave Hourigan was born on May 27, 1947, near Gravel Switch, Kentucky, the second child of Ross Taylor Hourigan and Elizabeth Lehner Hourigan, and departed this life on September 11, 2006, at the age of 59 years; and

WHEREAS, a graduate of Lebanon High School and the University of Kentucky, Dave returned to his alma mater to teach, continuing to help shape young lives at Lebanon High, and later at Marion County High School following consolidation of the schools. He served as an assistant baseball coach from 1974 until becoming head baseball coach for Marion County High in 1983. In recognition of his contributions to high school athletics, Dave was inducted into the Athletic Directors' 5th Region Hall of Fame in 2003; and

WHEREAS, Dave Hourigan served the citizens of Marion County as Deputy County Clerk from 1974 until 1986, when he ran successfully for a seat in the House of Representatives, where he served four terms. During his tenure, Representative Hourigan went quietly about his legislative duties, effectively serving his constituents, and offering common sense and plain talk, often beginning his floor speeches with the phrase, "This is the way we look at things in Gravel Switch."; and

WHEREAS, in 1993, Dave Hourigan was elected Marion County Judge Executive, at a time when the county was experiencing serious financial difficulties. As the county's chief executive, he led the fight to increase the local occupational tax to 1%. Although unpopular at the time, the increased revenue helped to bring the county to financial stability, and helped to fund construction of the Marion County Detention Center. By the end of the 2005-2006 fiscal year, the county had a surplus of some $2 million, and a new Marion County Administrative Office Building which has now been dedicated in Dave Hourigan's memory; and

WHEREAS, although Dave Hourigan never married, he is remembered as having the biggest family in Marion County, because the county was his family;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the untimely passing of Dave Hourigan, colleague, public servant, and friend.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the late Dave Hourigan.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Marion County Fiscal Court, Marion County Courthouse, 120 West Main Street, Lebanon, Kentucky 40033.

There being no objection, **HR 21** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **HR 21** the vote was: **Yeas 100**. (See January 3, 2007, roll call to show co-sponsors on **HR 21**-Appendix.)

Representative Adkins announced that there would be computer training in the House Chamber for new members.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 178, by Representatives Rader and Edmonds: AN ACT relating to national board certified teachers.

Floor Amendments

Floor Amendment No. 1 to **HB 107**, by Representative Pullin:

HB 107, On Page 2, line 6, after the word "***75,***" by inserting "***95,***"; and

On page 2, line 8, after "***city***" by deleting "***, except as provided in subsection (8) of this section***"; and

On Page 2, on lines 9 through 13, by deleting subsection (8) in it entirety.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 11, Representative Fischer

HB 14, Representatives Embry and Kerr

HB 17, Representatives Miller and Wayne

HB 21, Representatives Kerr and Embry

HB 23, Representative Miller

HB 25, Representative Riner

HB 45, Representative Embry

HB 48, Representatives Gray, DeCesare, Fischer, Rudy, and Harmon

HB 53, Representative Wayne

HB 54, Representative Stein

HB 55, Representative Stein

HB 58, Representative Embry

HB 60, Representatives Embry and Watkins

HB 63, Representative Wuchner

HB 64, Representative Stein

HB 75, Representative Embry

HB 78, Representative Embry

HB 91, Representative Embry

HB 92, Representative Embry

HB 94, Representative Denham

HB 109, Representative Embry

HB 110, Representative Fischer

HB 111, Representative Couch

HB 119, Representative Embry

HB 122, Representative Embry

HB 131, Representative Embry

HB 146, Representative Embry

HB 161, Representative Hall

HB 165, Representative Hall

HB 170, Representatives Miller and Floyd

Announcements

Majority Caucus, Room 169, upon adjournment

Adjournment

Representative Adkins moved to adjourn until the hour of 11:00 a.m. on Thursday, January 4, 2007.

The motion that the House adjourn until 11:00 a.m., Thursday, January 4, 2007, was adopted by voice vote.

THURSDAY, JANUARY 4, 2007

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Larry Sivis, First Christian Church Disciples of Christ, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representatives Denham and Marzian.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 3, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Introduction of Bills and Resolutions

HB 179, by Representative Ballard: AN ACT relating to traffic fines.

HB 180, by Representative Ballard: AN ACT relating to charitable gaming.

HB 181, by Representative Farmer: AN ACT relating to equal employment opportunity in state contracts.

HB 182, by Representative Butler: AN ACT relating to motor carrier permits.

Report of Committees

The following members presented Interim Committee Reports:

Representative McKee - Committee on Agriculture and Small Business

Representative Gooch - Committee on Natural Resources and Environment

Representative Moberly - Committee on Appropriations and Revenue

Representative Palumbo - Committee on Economic Development

Representative Riggs - Committee on Local Government

Representative Rasche - Committee on Education

Representative Pullin - Special Subcommittee on Energy

Motions, Petitions, and Communication

Representative Ford moved the adoption of the following **Legislative Citation No. 3**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Billy Ray Wynn and joins with Representative Danny Ford in expressing deepest sympathy to the Wynn Family and all who mourn the tragic and untimely loss of this esteemed citizen of Berea, Kentucky, on December 31, 2006. The son of the late Henry and Norma Sears, he is survived by his beloved wife of thirty-eight years, Alicia Abney Wynn; daughter and son-in-law, Sherri Denise and Charles Toby Cotton; son and daughter-in-law, Darren Ray and Stella Wynn; brothers and sisters-in-law, Johnny and Janice Wynn and Bobby and Donna Wynn; step-mother, Dorothy Wynn; step-sister, Linda White; step-brothers, Clarence, Granville and Larry Isaacs; grandchildren, Chelsea Chasteen, Aaron Chasteen, B. J. Wynn and Justin Wynn; and, a host of other family members, friends and loved ones. This highly-regarded gentleman, a native of Rockcastle County; an employee of Parker Seal; an ordained deacon at Bible Baptist Church; and a devoted father, grandfather and husband, is remembered on this day and honored for the many and generous contributions he made to his family, friends and the community. Billy Ray Wynn will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this fourth day of January, in the year two thousand and seven.

Legislative Citation No. 3 was adopted without objection.

Representative Wayne moved that **HB 153** and **HB 154** be withdrawn. Agreed.

Representative Wayne moved the adoption of the following **Legislative Citation No. 2**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Marilyn Spink Sister of Charity of Nazareth and joins with Representative Jim Wayne in expressing deepest gratitude to this remarkable woman for her many vital contributions to the Commonwealth of Kentucky and deepest sympathy to all who share in the profound loss on March 27, 2006, of this compassionate and highly-effective community leader. A native of Louisville and a Sister of Charity of Nazareth for forty-four years, her efforts on behalf of those suffering life-threatening illnesses and those diagnosed with terminal illnesses, led her to England in 1976 to work under the foremost hospice expert, Cicely Saunders, at St. Christopher Hospice. Upon returning to Louisville, she joined with health care leaders to found one of the first hospices in the United States in the City of Louisville, and went on to establish Hospice of Southern Indiana, Shelbyville and Elizabethtown, all of which offered services designed to meet the medical, social, emotional and spiritual needs of persons with life-threatening illnesses and their families. Sister Marilyn was instrumental in the opening of Glade House and House of Ruth, two Louisville organizations that care for families and individuals affected by HIV/AIDS. Concerned that patients with HIV/AIDS had few if any options for long-term care, she helped lead the efforts to have communicable disease regulations waived as they applied to nursing homes so those patients could be admitted to such facilities. Nazareth Home was the first to admit HIV/AIDS patients and remained the only one to do so for the next ten years, due to both discrimination and fear associated with the disease. She was committed to providing outreach services to the homosexual community and served as pastoral minister to lesbians and gays at the request of Archbishop Kelly. This esteemed citizen, who also founded a local chapter of "Make Today Count," a self-help group for the terminally ill, is remembered on this day for her devoted and faithful efforts to ease the pains of those who suffer. Sister Marilyn will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this fourth day of January, in the year two thousand and seven.

Legislative Citation No. 2 was adopted without objection.

Representative Vincent moved the adoption of the following **HR 24**:

HR 24, A RESOLUTION adjourning the House of Representatives in honor of Kentuckian and Major League Baseball player Brandon Webb, winner of the 2006 National League Cy Young Award.

WHEREAS, Brandon Webb was born May 9, 1979, in Ashland, Kentucky; and

WHEREAS, Brandon Webb attended Ashland Paul Blazer High School, where he enjoyed great success on the baseball diamond; and

WHEREAS, Brandon Webb attended the University of Kentucky, where he was a standout pitcher for the Wildcats Baseball team; and

WHEREAS, Brandon Webb has played four seasons with the Arizona Diamondbacks, starting 129 games and striking out nearly 700 batters in his career; and

WHEREAS, Brandon Webb enjoyed an outstanding season in 2006, starting the season 8-0 and winning a league best 16 games while finishing up with a final record of 16-8 with an earned run average of 3.10 and striking out 172 batters while allowing only 50 walks; and

WHEREAS, Brandon Webb recorded career highs in wins, innings pitched, and strikeouts, and a career low in walks issued; and

WHEREAS, Brandon Webb was selected to the National League All-Star Team in 2006, the first time he received such an honor; and

WHEREAS, Brandon Webb's outstanding season was honored in a very prominent way when he was named winner of the 2006 National League Cy Young Award, emblematic of the outstanding pitcher in the league; and

WHEREAS, Brandon Webb became the first Kentuckian to win a Cy Young Award in the award's 50 year history;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do hereby applaud the accomplishments of Brandon Webb, congratulate him on the honor of winning the 2006 National League Cy Young Award, and declare him to be an outstanding citizen of the Commonwealth and an exemplary role model for the young student athletes in the Bluegrass State.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Brandon Webb.

Section 3. The Clerk of the House of Representatives shall forward a copy of this Resolution to Representative John Vincent for presentation to Brandon Webb.

There being no objection, **HR 24** was adopted.

Representative Siler moved that **HB 39** be withdrawn. Agreed.

Representative Riggs moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 37, by Representatives Riggs and Crimm: A RESOLUTION honoring the distinguished service of Jeffersontown Police Department Colonel Fred Roemele upon his retirement from law enforcement.

Motions, Petitions, and Communications (Continued)

Representative Riggs moved the adoption of the following **HR 37**:

HR 37, A RESOLUTION honoring the distinguished service of Jeffersontown Police Department Colonel Fred Roemele upon his retirement from law enforcement.

WHEREAS, Col. Roemele served his nation with distinction as a United States Marine, winning a Purple Heart during his service in Korea, before beginning a career in law enforcement over 50 years ago; and

WHEREAS, as a Jefferson County Police Department Captain, Col. Roemele earned a special commendation from President Richard Nixon for entering a home unarmed and negotiating a peaceful conclusion after an armed subject had barricaded himself with two children; and

WHEREAS, Col. Roemele has served as Chief of the Jeffersontown Police Department since 1982, and under his command, the department became the first in Kentucky to win both state and national accreditation; and

WHEREAS, Col. Roemele has earned a reputation as a man of dignity, determination, and honor in the law enforcement community, and has received numerous community awards for honor and valor;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby salute the accomplishments of Col. Fred Roemele and extends him best wishes for a well-earned retirement.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Col. Fred Roemele.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Steven Riggs for hand delivery to Col. Fred Roemele.

There being no objection, **HR 37** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 183, by Representative Farmer: AN ACT relating to the Kentucky Department of Veterans' Affairs acting as a fiduciary.

HB 184, by Representative Moberly: AN ACT relating to the branch budget bills.

HB 185, by Representatives Moberly and J. Lee: AN ACT relating to a cardiovascular disease initiative and making an appropriation therefor.

HB 186, by Representative B. Smith: AN ACT relating to certification of miners.

HB 187, by Representative Richards: AN ACT relating to the funding of local jails.

HB 188, by Representative Floyd: AN ACT relating to tax credits to promote educational quality in Kentucky schools.

HB 189, by Representative Wuchner: AN ACT relating to the support education excellence in Kentucky program.

HB 190, by Representative Adkins: AN ACT relating to the Office of the Attorney General.

HB 191, by Representatives Webb, Wilkey, Simpson, Graham, and Owens: AN ACT relating to medical parole of prisoners.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 11, Representative Harmon

HB 12, Representative Harmon

HB 13, Representative Harmon

HB 22, Representative Harmon

HB 23, Representatives Clark, Crimm, Thompson, and Jenkins

HB 25, Representative Jenkins

HB 30, Representative Harmon

HB 48, Representatives Napier, Stewart, and Baugh

HB 51, Representatives Wuchner, Greer, and Gray

HB 60, Representatives Bell, C. Belcher, and Gray

HB 61, Representatives Vincent and Greer

HB 64, Representative Thompson

HB 74, Representative Jenkins

HB 88, Representative Embry

HB 109, Representatives Miller and DeWeese

HB 120, Representative Meeks

HB 167, Representative Embry

HJR 5, Representative Baugh

HJR 13, Representative DeWeese

HR 24, Representative Adkins

Adjournment

Representative Adkins moved to adjourn until the hour of 9:00 a.m. on Friday, January 5, 2007.

The motion that the House adjourn until 9:00 a.m., Friday, January 5, 2007, was adopted by voice vote.

FRIDAY, JANUARY 5, 2007

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Father Patrick Stewart, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representatives Bratcher and Gooch.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 4, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Introduction of Bills and Resolutions

HB 192, by Representatives Nesler, McKee, and Rudy: AN ACT relating to cotton.

HB 193, by Representative Harmon: AN ACT relating to tax credits to enhance the educational opportunities for all students in Kentucky.

HB 194, by Representative S. Lee: AN ACT relating to public officers.

HB 195, by Representatives DeCesare, Edmonds, Nelson, Mobley, Hall, and Montell: AN ACT relating to writing portfolios.

HB 196, by Representative Marzian: AN ACT relating to nursing.

HB 197, by Representatives Rollins, A. Smith, Henderson, Richards, and Graham: AN ACT relating to community education.

HB 198, by Representative Burch: AN ACT relating to jurisdictional limits for Kentucky courts.

HB 199, by Representative Burch: AN ACT relating to child welfare training for judges.

HB 200, by Representative Burch: AN ACT relating to the abolition of the death penalty.

HB 201, by Representatives Weston, Jenkins, Firkins, Burch, Crimm, Miller, Wayne, Riggs, Marzian, and Owens: AN ACT relating to fire department merit boards in a consolidated local government.

HB 202, by Representatives McKee and Pasley: AN ACT relating to agricultural districts.

HB 203, by Representative McKee: AN ACT relating to show cattle, and making an appropriation therefor.

HR 38, by Representative Kerr: A RESOLUTION adjourning the House of Representatives in memory and honor of Christopher "Pooh Bear" Morrison.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 14, 28, 30, 33**

Appropriations and Revenue: **HB 52, 72, 73, 184, 185, 188, 189**

Education: **HB 178, HCR 25, 26, 27, 29, 31, 32**

Health and Welfare: **HB 48**

Judiciary: **HB 11, 13, 19, 82, 164, 176, 187, 190, 191, HR 4**

Labor and Industry: **HB 148**

Licensing and Occupations: **HB 27, 180**

Local Government: **HB 107, 177**

Natural Resources and Environment: **HB 186**

Seniors, Military Affairs and Public Safety: **HB 183**

State Government: **HB 12, 166, 181**

Transportation: **HB 179, 182**

House Floor: **HR 34**

Report of Committees

The following members presented Interim Committee Reports:

Representative Denham - Committee on Banking and Insurance

Representative Burch - Committee on Health and Welfare

Representative Meeks - Biennial Trends of Long Term Policy Research Center

Representative Stein - Committee on Judiciary

Representative Jenkins - Licensing, Occupations, and Administrative Regulations

Representative Pullin - Seniors, Military Affairs & Public Safety

Representative Cherry - Committee on State Government

Representative Ballard - Tourism Development and Energy

Representative Collins - Transportation

Senate Message

Announcing passage of SCR 22. (9:55 a.m.)

Report of Committees (Continued)

Representative Gray - Committee on Labor and Industry

The Committee on Committees Report provided the following committee appointments:

AGRICULTURE AND SMALL BUSINESS
Rep. Thomas M. McKee, Chair
Rep. Royce W. Adams, Vice Chair
Rep. John A. Arnold, Jr., Vice Chair
Rep. Mike Cherry
Rep. Mike Denham, Vice Chair
Rep. Richard Henderson, Vice Chair
Rep. Charlie Hoffman
Rep. Fred Nesler
Rep. Don R. Pasley
Rep. Rick W. Rand
Rep. Tom Riner
Rep. Susan Westrom
Rep. Rob Wilkey
Rep. Dwight D. Butler
Rep. James R. Comer, Jr.
Rep. W. Milward Dedman, Jr.
Rep. C. B. Embry, Jr.
Rep. Jimmy Higdon
Rep. Brad Montell

Rep. Steven Rudy
Rep. Tommy Turner
Rep. Ken Upchurch, Vice Chair

APPROPRIATIONS AND REVENUE

Rep. Harry Moberly, Jr., Chair
Rep. Royce W. Adams
Rep. John A. Arnold, Jr., Vice Chair
Rep. Carolyn Belcher
Rep. Larry Clark
Rep. Jesse Crenshaw
Rep. Derrick Graham
Rep. W. Keith Hall
Rep. Jimmie Lee
Rep. Mary Lou Marzian
Rep. Fred Nesler, Vice Chair
Rep. Don R. Pasley
Rep. Rick W. Rand
Rep. Arnold Simpson, Vice Chair
Rep. John Will Stacy
Rep. Jim Wayne
Rep. Robin L. Webb, Vice Chair
Rep. Brent Yonts, Vice Chair
Rep. Scott W. Brinkman
Rep. Dwight D. Butler
Rep. James R. Comer, Jr.
Rep. Bob M. DeWeese, Vice Chair
Rep. Jon Draud
Rep. Danny R. Ford
Rep. Lonnie Napier
Rep. Marie L. Rader
Rep. Charles L. Siler, Vice Chair
Rep. Tommy Turner
Rep. John Vincent

BANKING AND INSURANCE

Rep. Tommy Thompson, Chair
Rep. Johnny Bell
Rep. Robert R. Damron
Rep. Mike Denham, Vice Chair
Rep. Ted "Teddy" Edmonds
Rep. Tim Firkins
Rep. Jim Gooch, Jr.
Rep. J. R. Gray
Rep. Jeff Greer, Vice Chair
Rep. Dennis Horlander, Vice Chair
Rep. Dennis Keene
Rep. Rick W. Rand
Rep. Frank Rasche
Rep. Steve Riggs, Vice Chair
Rep. John Tilley, Vice Chair
Rep. David Watkins
Rep. Ron Weston
Rep. Susan Westrom, Vice Chair
Rep. Sheldon E. Baugh, Vice Chair

Rep. James R. Comer, Jr.
Rep. Ron Crimm
Rep. Joseph M. Fischer
Rep. Danny R. Ford
Rep. Mike Harmon
Rep. Jimmy Higdon
Rep. Brandon D. Smith
Rep. Ken Upchurch
Rep. Addia Wuchner

Budget Review Subcommittee on Economic Development, Tourism, Natural Resources, and Environmental Protection
Rep. John A. Arnold, Jr., Chair
Rep. Larry Clark
Rep. Jim Gooch, Jr., ex officio
Rep. Charlie Hoffman, Liaison Member
Rep. Dennis Keene, Liaison Member
Rep. Harry Moberly, Jr., ex officio
Rep. Ruth Ann Palumbo, ex officio
Rep. Susan Westrom, Liaison Member
Rep. Lonnie Napier
Rep. Marie L. Rader

Budget Review Subcommittee on Education
Rep. John Will Stacy, Chair
Rep. Derrick Graham
Rep. Mary Lou Marzian
Rep. Charles Miller, Liaison Member
Rep. Harry Moberly, Jr., ex officio
Rep. Rick G. Nelson, Liaison Member
Rep. Frank Rasche, ex officio
Rep. Jon Draud
Rep. Tommy Turner

Budget Review Subcommittee on General Government, Finance and Public Protection
Rep. Royce W. Adams, Chair
Rep. Carolyn Belcher
Rep. Thomas M. McKee, ex officio
Rep. Harry Moberly, Jr., ex officio
Rep. Tanya G. Pullin, Liaison Member
Rep. Rick W. Rand
Rep. Ron Weston, Liaison Member
Rep. Dwight D. Butler
Rep. Charles L. Siler

Budget Review Subcommittee on Human Resources
Rep. Jimmie Lee, Chair
Rep. Tom Burch, ex officio
Rep. Reginald K. Meeks, Liaison Member
Rep. Harry Moberly, Jr., ex officio
Rep. Darryl T. Owens, Liaison Member
Rep. Kathy W. Stein, Liaison Member
Rep. Scott W. Brinkman
Rep. Bob M. DeWeese

Budget Review Subcommittee on Justice and Judiciary
Rep. Jesse Crenshaw, Chair
Rep. Ted "Teddy" Edmonds, Liaison Member
Rep. Harry Moberly, Jr., ex officio
Rep. Robin L. Webb
Rep. Brent Yonts
Rep. John Vincent

Budget Review Subcommittee on Transportation
Rep. Don R. Pasley, Chair
Rep. Eddie Ballard, Liaison Member
Rep. Hubert Collins, ex officio
Rep. Mike Denham, Liaison Member
Rep. W. Keith Hall
Rep. Harry Moberly, Jr., ex officio
Rep. Fred Nesler
Rep. Arnold Simpson
Rep. Ancel Smith, Liaison Member
Rep. Jim Wayne
Rep James R. Comer, Jr.
Rep. Danny R. Ford

COMMITTEE ON COMMITTEES
Rep. Jody Richards, Chair
Rep. Rocky Adkins
Rep. Larry Clark
Rep. Charlie Hoffman
Rep. Rob Wilkey
Rep. Jeff Hoover

ECONOMIC DEVELOPMENT
Rep. Ruth Ann Palumbo, Chair
Rep. Eddie Ballard
Rep. Jesse Crenshaw
Rep. Mike Denham
Rep. Ted "Teddy" Edmonds, Vice Chair
Rep. Dennis Horlander, Vice Chair
Rep. Dennis Keene, Vice Chair
Rep. Fred Nesler, Vice Chair
Rep. Dottie Sims
Rep. John Will Stacy
Rep. Tommy Thompson
Rep. Kevin D. Bratcher
Rep. Tim Couch, Vice Chair
Rep. Jim DeCesare
Rep. Bob M. DeWeese
Rep. Myron Dossett
Rep. Melvin B. Henley
Rep. Thomas Kerr
Rep. Adam Koenig
Rep. Brad Montell

EDUCATION
Rep. Frank Rasche, Chair
Rep. Larry Belcher, Vice Chair
Rep. Mike Cherry
Rep. Hubert Collins
Rep. Leslie Combs
Rep. Ted "Teddy" Edmonds, Vice Chair
Rep. Tim Firkins, Vice Chair
Rep. Jim Glenn
Rep. Jeff Greer
Rep. Mary Lou Marzian
Rep. Reginald K. Meeks
Rep. Charles Miller, Vice Chair
Rep. Harry Moberly, Jr.
Rep. Rick G. Nelson, Vice Chair
Rep. Tom Riner, Vice Chair
Rep. Carl Rollins, II
Rep. Dottie Sims
Rep. David Watkins
Rep. Ron Weston
Rep. Jim DeCesare
Rep. Jon Draud, Vice Chair
Rep. C. B. Embry, Jr.
Rep. Bill Farmer
Rep. Jimmy Higdon
Rep. Russ Mobley
Rep. Charles L. Siler
Rep. Addia Wuchner

ELECTIONS, CONSTITUTIONAL AMENDMENTS, & INTERGOVERNMENTAL AFFAIRS
Rep. Darryl T. Owens, Chair
Rep. Larry Clark
Rep. J. R. Gray
Rep. Mary Lou Marzian
Rep. Dottie Sims, Vice Chair
Rep. Kathy W. Stein
Rep. Rob Wilkey
Rep. Kevin D. Bratcher
Rep. Joseph M. Fischer, Vice Chair
Rep. Mike Harmon
Rep. Melvin B. Henley

ENROLLMENT COMMITTEE
Rep. Susan Westrom, Chair
Rep. Rocky Adkins
Rep. Rob Wilkey
Rep. Jeff Hoover

HEALTH AND WELFARE
Rep. Tom Burch, Chair
Rep. John A. Arnold, Jr.
Rep. Robert R. Damron
Rep. Joni L. Jenkins
Rep. Mary Lou Marzian
Rep. Darryl T. Owens

Rep. Ruth Ann Palumbo
Rep. Ancel Smith
Rep. James "Brandon" Spencer, Vice Chair
Rep. Kathy W. Stein
Rep. David Watkins, Vice Chair
Rep. Susan Westrom
Rep. Scott W. Brinkman
Rep. James R. Comer, Jr.
Rep. Bob M. DeWeese, Vice Chair
Rep. David Floyd
Rep. Addia Wuchner

JUDICIARY
Rep. Kathy W. Stein, Chair
Rep. Jesse Crenshaw
Rep. Derrick Graham
Rep. Darryl T. Owens, Vice Chair
Rep. Frank Rasche
Rep. Arnold Simpson
Rep. Robin L. Webb
Rep. Rob Wilkey, Vice Chair
Rep. Brent Yonts, Vice Chair
Rep. Kevin D. Bratcher
Rep. Joseph M. Fischer
Rep. Jeff Hoover
Rep. Stan Lee
Rep. Steven Rudy
Rep. John Vincent, Vice Chair

LABOR AND INDUSTRY
Rep. J. R. Gray, Chair
Rep. John A. Arnold, Jr.
Rep. Richard Henderson
Rep. Charlie Hoffman, Vice Chair
Rep. Dennis Horlander
Rep. Joni L. Jenkins, Vice Chair
Rep. Charles Miller
Rep. Rick G. Nelson, Vice Chair
Rep. Tom Riner
Rep. Dottie Sims
Rep. Brent Yonts
Rep. Myron Dossett
Rep. C. B. Embry, Jr.
Rep. Bill Farmer
Rep. Thomas Kerr
Rep. Adam Koenig
Rep. Russ Mobley
Rep. Jim Stewart, III, Vice Chair

LICENSING AND OCCUPATIONS
Rep. Joni L. Jenkins, Chair
Rep. Tom Burch
Rep. Larry Clark
Rep. Tom Firkins
Rep. Dennis Horlander

Rep. Dennis Keene
Rep. Reginald K. Meeks, Vice Chair
Rep. Charles Miller, Vice Chair
Rep. Ruth Ann Palumbo
Rep. Carl Rollins, II
Rep. Ron Weston
Rep. Susan Westrom, Vice Chair
Rep. Ron Crimm
Rep. W. Milward Dedman, Jr.
Rep. Jon Draud
Rep. Tim Moore
Rep. David Osborne
Rep. Sal Santoro

LOCAL GOVERNMENT

Rep. Steve Riggs, Chair
Rep. Robert R. Damron
Rep. Mike Denham, Vice Chair
Rep. Ted "Teddy" Edmonds
Rep. Derrick Graham
Rep. Richard Henderson
Rep. Charlie Hoffman
Rep. Dennis Keene
Rep. Thomas M. McKee
Rep. Reginald K. Meeks
Rep. Arnold Simpson
Rep. Ancel Smith, Vice Chair
Rep. Jim Wayne, Vice Chair
Rep. Scott W. Brinkman
Rep. Ron Crimm, Vice Chair
Rep. David Floyd
Rep. Adam Koenig
Rep. Brad Montell
Rep. David Osborne
Rep. Ken Upchurch

NATURAL RESOURCES AND ENVIRONMENT

Rep. Jim Gooch, Jr., Chair
Rep. Hubert Collins
Rep. W. Keith Hall, Vice Chair
Rep. Reginald K. Meeks
Rep. Don R. Pasley
Rep. Tanya G. Pullin
Rep. James "Brandon" Spencer, Vice Chair
Rep. Robin L. Webb
Rep. Tim Couch
Rep. Tim Moore
Rep. Marie L. Rader
Rep. Brandon D. Smith
Rep. Jim Stewart, III

RULES

Rep. Jody Richards, Chair
Rep. Rocky Adkins
Rep. John A. Arnold, Jr.

Rep. Eddie Ballard
Rep. Larry Clark
Rep. Robert R. Damron
Rep. Charlie Hoffman
Rep. Joni L. Jenkins
Rep. Jimmie Lee
Rep. Fred Nesler
Rep. Ruth Ann Palumbo
Rep. Steve Riggs
Rep. John Will Stacy
Rep. Kathy W. Stein
Rep. Tommy Thompson
Rep. Rob Wilkey
Rep. Sheldon E. Baugh
Rep. James R. Comer, Jr.
Rep. Bob M. DeWeese
Rep. Danny R. Ford
Rep. Jeff Hoover
Rep. Tommy Turner
Rep. Ken Upchurch
Rep. John Vincent

SENIORS, MILITARY AFFAIRS, AND PUBLIC SAFETY

Rep. Tanya G. Pullin, Chair
Rep. Carolyn Belcher
Rep. Larry Belcher, Vice Chair
Rep. Tom Burch
Rep. Jim Glenn
Rep. Jeff Greer, Vice Chair
Rep. Fred Nesler
Rep. Steve Riggs
Rep. Tom Riner
Rep. Dottie Sims
Rep. Ancel Smith
Rep. John Tilley, Vice Chair
Rep. Sheldon E. Baugh, Vice Chair
Rep. Bill Farmer
Rep. David Floyd
Rep. Steven Rudy
Rep. Sal Santoro
Rep. Charles L. Siler

STATE GOVERNMENT

Rep. Mike Cherry, Chair
Rep. Eddie Ballard, Vice Chair
Rep. Carolyn Belcher, Vice Chair
Rep. Johnny Bell
Rep. Leslie Combs
Rep. Jim Glenn, Vice Chair
Rep. Derrick Graham, Vice Chair
Rep. Charlie Hoffman
Rep. Jimmie Lee
Rep. Tanya G. Pullin
Rep. Tom Riner
Rep. Carl Rollins, II, Vice Chair

Rep. John Will Stacy
Rep. Tommy Thompson
Rep. John Tilley
Rep. Jim Wayne
Rep. Brent Yonts
Rep. Sheldon E. Baugh
Rep. Dwight D. Butler
Rep. Tim Couch
Rep. David Floyd
Rep. Danny R. Ford
Rep. Lonnie Napier, Vice Chair

TOURISM DEVELOPMENT AND ENERGY

Rep. Eddie Ballard, Chair
Rep. Royce W. Adams
Rep. Carolyn Belcher
Rep. Larry Clark
Rep. Leslie Combs
Rep. Jim Gooch, Jr.
Rep. W. Keith Hall
Rep. Thomas M. McKee
Rep. Tanya G. Pullin, Vice Chair
Rep. Ancel Smith, Vice Chair
Rep. Robin L. Webb
Rep. Ron Weston, Vice Chair
Rep. W. Milward Dedman, Jr.
Rep. Bob M. DeWeese
Rep. Myron Dossett
Rep. Mike Harmon
Rep. Thomas Kerr
Rep. Tim Moore
Rep. David Osborne
Rep. Brandon D. Smith, Vice Chair

TRANSPORTATION

Rep. Hubert Collins, Chair
Rep. John A. Arnold, Jr.
Rep. Eddie Ballard
Rep. Carolyn Belcher
Rep. Larry Belcher
Rep. Johnny Bell, Vice Chair
Rep. Leslie Combs, Vice Chair
Rep. J. R. Gray
Rep. W. Keith Hall
Rep. Richard Henderson
Rep. Jimmie Lee
Rep. Charles Miller
Rep. Rick G. Nelson
Rep. Arnold Simpson
Rep. Ancel Smith, Vice Chair
Rep. James "Brandon" Spencer
Rep. Tim Couch
Rep. Jim DeCesare
Rep. Melvin B. Henley
Rep. Russ Mobley

Rep. Lonnie Napier
Rep. Marie L. Rader, Vice Chair
Rep. Sal Santoro
Rep. Jim Stewart, III
Rep. Tommy Turner
Rep. John Vincent

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to act on a Resolution. Agreed.

Representative Adkins moved the adoption of the following **SCR 22**:

SCR 22, A CONCURRENT RESOLUTION adjourning the 2007 Regular Session of the General Assembly until February 6, 2007.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and the House of Representatives adjourn on January 5, 2007, they do adjourn until February 6, 2007, when they shall convene for the second part of the 2007 Regular Session of the General Assembly.

There being no objection, **SCR 22** was adopted.

Representative Hoover moved the adoption of the following **Legislative Citation No. 4**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Morris L. Stoner and joins with Representative Jeffrey Hoover in expressing deepest sympathy to the Stoner/Kirtley Family and all who share in the profound loss on the passing of this esteemed citizen on December 25, 2007. He is survived by his loving and devoted wife of eight years, Dr. Roycelyn "Ro" Gray-Stoner; mother, Jean Stoner; father, Morris Stoner, Jr.; sisters, Melissa L. Stoner, Marchelle L. Stoner and Marsha L. Stoner; maternal grandmother, Anna K. Kirtley; and, a host of other family members, friends and loved ones. An award-winning and passionate high school basketball player in Shelby County, who went on to play basketball for the Kentucky State University Thoroughbreds, he earned his Bachelor of Science Degree in Computer Science from Kentucky State University and began his IT career at the University of Louisville in the Informational Technology Department before joining the staff of UPS as a computer analyst. A faithful servant of God, Mo Stoner was a loving and devoted husband, son, grandson, brother, uncle and friend who is remembered on this day for the many and generous contributions he made to his family, church, community and this great Commonwealth. Morris L. Stoner will be deeply missed by all those whose lives were touched by his gentle, kind and generous presence. Done in Frankfort, Kentucky, this fourth day of January, in the year two thousand and seven.

Legislative Citation No. 4 was adopted without objection.

Representative Nesler moved the adoption of the following **Legislative Citation No. 5**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Edith C. Thomas and joins with Representative Fred Nesler in expressing deepest sympathy to the Thomas and Gibson Families and all who share in the loss of this esteemed citizen and cherished native of the Fancy Farm, Kentucky, community. The daughter of the late Leonard and Rachael Adkins Gibson, and also preceded in death by her husband, Joseph P. Thomas, and a brother and sister, she is survived by her sons, Laddie Thomas, Robert Thomas and Fred Thomas; daughters, Jo Ann Aucter, Peggy Riley, Angela Thomas and Teresa Thomas; sister, Glenda Gibson Crandall; eleven grandchildren; nine great-grandchildren; and, a host of other family members, friends and loved ones. This beloved citizen, retired seamstress from the Curlee Clothing Company; a devoted mother and grandmother; and, a faithful member of St. Jerome Catholic Church, is remembered on this day for the many and generous contributions she made to her family and community. Edith C. Thomas will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this fourth day of January, in the year two thousand and seven.

Legislative Citation No. 5 was adopted without objection.

Representative Nesler moved the adoption of the following **Legislative Citation No. 6**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Martha Perkins Wilson and joins with Representative Fred Nesler in expressing deepest sympathy to the Wilson, Perkins and Moses Families and all who share in the loss of this esteemed citizen, a resident of Mayfield, Kentucky. The daughter of the late R.W. Perkins and Louise Burge Moses, she was preceded in death by a son, Jimmy Wilson, and a brother. She is survived by her cherished husband of fifty-four years, Dr. James E. Wilson; beloved daughters, Karen Roberts and Beth Ray; sister, Sara Hobbs; step-brother, John Moses; step-sisters, Ann Watson, Jean Richardson, Nancy Jones and Judy Hughes; six grandchildren; four great-grandchildren; and, a host of other family members, friends and loved ones. This beloved citizen, a dedicated hospice volunteer for sixteen years and a faithful member of Northside Baptist Church, is remembered on this day for the many and generous contributions she made to her family and community. Martha Perkins Wilson will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this fourth day of January, in the year two thousand and seven.

Legislative Citation No. 6 was adopted without objection.

Representative Kerr moved the adoption of the following **HR 38**:

HR 38, A RESOLUTION adjourning the House of Representatives in memory and honor of Christopher "Pooh Bear" Morrison.

WHEREAS, Christopher "Pooh Bear" Morrison was born in 1973 to devoted parents Vic and Sandy Morrison; and

WHEREAS, Mr. Morrison was diagnosed with Dechenne muscular dystrophy, a progressive disease that would cause muscular deformity and weakness over his lifetime. Mr. Morrison far outlived the life expectancy projected by medical professionals and researchers by reaching 33 years of age; and

WHEREAS, Mr. Morrison lived his life as fully and as freely as he could, despite his physical impairments, serving as an inspiration to others as they face life's obstacles, and indulging in his love for wrestling, football, and animals of all kinds; and

WHEREAS, Mr. Morrison departed this life on November 22, 2006, and an entire community joins in grieving with his beloved parents;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Christopher "Pooh Bear" Morrison and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Christopher "Pooh Bear" Morrison.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of the Resolution to Vic and Sandy Morrison, 100 Roselawn Drive, Independence, Kentucky 41051.

There being no objection, **HR 38** was adopted.

Representative Marzian moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 41, by Representative Marzian: A RESOLUTION honoring United States Representative Nancy Pelosi upon her election as the first female in our nation's history to the office of Speaker of the House of Representatives.

Motions, Petitions, and Communications (Continued)

Representative Marzian moved the adoption of the following **HR 41**:

HR 41, A RESOLUTION honoring United States Representative Nancy Pelosi upon her election as the first female in our nation's history to the office of Speaker of the House of Representatives.

WHEREAS, on January 4, 2007, Nancy Pelosi was handed the gavel symbolizing the culmination of 200 years of political struggle for women, as well as a personal victory for the woman who has represented California's Eighth District since 1987, and who was also the first female to lead a major party in the U.S. Congress with her election in 2002 as Democratic Leader; and

WHEREAS, Nancy Pelosi is the product of a family with a long tradition of public service. Her father, Thomas D'Alesandro, Jr., served as mayor of Baltimore for 12 years, after representing the city for five terms in Congress. Her brother, Thomas D'Alesandro III, also served as mayor of Baltimore. Speaker Pelosi graduated from Trinity College in 1962, and she and her husband, Paul Pelosi, a native of San Francisco, have five children and six grandchildren; and

WHEREAS, Speaker Pelosi has been a fighter for America's families, leading the charge for increased educational opportunity, protection of our workers, and the creation of the Housing Opportunities for People with Aids program. She has also worked to accelerate development of an HIV vaccine, expand access to Medicaid for people living with HIV, and increase funding for programs vital to our citizens living with or at risk for HIV/AIDS; and

WHEREAS, upon assuming the office of Speaker, Congressman Pelosi observed that, "This is an historic moment, for the Congress, and for the women of America...For our daughters and granddaughters, today we have broken the marble ceiling. For our daughters and granddaughters now, the sky is the limit";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives salutes Nancy Pelosi, America's first female speaker of the House, and extends to her its heartfelt congratulations.

Section 2. When the House of Representatives adjourns this day, it does so in honor of U.S. Speaker of the House, the honorable Nancy Pelosi.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Speaker Nancy Pelosi, H-232, United States Capitol, Washington, D.C. 20515.

There being no objection, **HR 41** was adopted.

Representative Embry moved the adoption of the following **Legislative Citation No. 7.**

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Staff Sgt. Thomas W. Clemons and joins Representative C.B. Embry, Jr. in expressing deepest sympathy to the Clemons Family and all those who share in the profound loss of this distinguished soldier, a Staff Sergeant serving with Company B, 2nd Battalion, 123rd Armor Division of the Kentucky National Guard who tragically died of a heart attack before going on patrol near Ad Diwaniyah, Iraq, on December 11, 2006. A resident of Falls of the Rough in Grayson County, Kentucky, he is survived by his wife, Sheila Marie Clemons; sons, Ryan Clemons and Tony Clemons; step-children, Brittany Siegel and Amber Siegel; father, William H. Clemons; mother and step-father, Patricia and Jimmy Frank; brothers, William Clemons, Timothy Clemons, Samuel Clemons and Shannon Frank; sisters, Michelle Mudd, Julia Johnson and Pamela Bowling; and, by a host of other family members, friends, fellow soldiers and loved ones. Known to his family and friends as "a prankster, peacekeeper and Wildcat fan," this valiant guardsman was described by his commander as "a man of honor, a patriot and a soldier dedicated to his fellow soldiers, his family and his country." Staff Sgt. Thomas Wade Clemons served as a member of the United States military with great courage and integrity, bringing honor to his family, friends, and all citizens of the Commonwealth of Kentucky and this great Nation. It is with solemn pride that this distinguished body honors the life of Staff Sgt. Thomas Clemons and extends deepest condolences to his loving family, fellow servicemen, friends and all those who mourn the loss of this courageous member of Kentucky's Army National Guard. Done in Frankfort, Kentucky, this fifth day of January, in the year two thousand and seven.

Legislative Citation No. 7 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 204, by Representative Hall: AN ACT relating to hunting.

HB 205, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 206, by Representatives Jenkins and Stein: AN ACT relating to tipped employees.

HB 207, by Representative Yonts: AN ACT relating to mine safety.

HB 208, by Representative Rollins: AN ACT relating to criminal background checks in public postsecondary education institutions.

HB 209, by Representatives Ford and Mobley: AN ACT relating to employment verification and eligibility.

HB 210, by Representatives Gray, Vincent and Butler: AN ACT relating to classified employee's benefits.

HB 211, by Representatives Fischer and Harmon: AN ACT relating to licenses to carry concealed deadly weapons.

HB 212, by Representative Graham: AN ACT relating to a state employee sick leave bank.

HB 213, by Representatives Miller, Siler, Nelson, Hoffman, Rollins, L. Belcher, Tilley, Butler, Sims, Watkins, Collins, Combs, Gray, Henley, Brinkman, Jenkins, Meeks, Glenn, Clark, McKee, Simpson, and Adkins: AN ACT relating to waiver of tuition fees for spouses and dependents of veterans.

HB 214, by Representative Riggs: AN ACT relating to law enforcement.

HB 215, by Representative Adams: AN ACT relating to motor vehicle special license plates.

HB 216, by Representatives Webb and Turner: AN ACT relating to fish and wildlife resources.

HB 217, by Representatives Osborne, Floyd, and Baugh: AN ACT relating to crimes and punishments.

HB 218, by Representatives Osborne and Floyd: AN ACT relating to sales and use tax.

HB 219, by Representatives Jenkins, Glenn, Marzian, Miller, Graham, Meeks, Clark, McKee, Gray, Palumbo, Hoffman, Combs, Weston, Burch, Stein, Richards, L. Belcher, Nelson, Tilley, Wilkey, Rollins, Webb, Firkins, Adkins, A. Smith, Westrom, C. Belcher, J. Lee, Owens, Horlander, and Greer: AN ACT relating to wage discrimination.

HR 39, by Representatives Jenkins, Brinkman, Clark, Weston, Owens, Miller, Crimm, Wayne, Riggs, Firkins, Burch, Meeks, DeWeese, Marzian, Osborne, and Riner: A RESOLUTION honoring the University of Louisville Football Cardinals, 2007 Orange Bowl Champions.

HR 40, by Representatives Simpson, Keene, Koenig, Wuchner, Kerr, Draud, Santoro, and McKee: A RESOLUTION urging Congress to accelerate funding for the Brent Spence Bridge replacement project.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that the reading of the Journal of January 5, 2007, be dispensed with and same approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 11, Representatives Mobley and Santoro

HB 12, Representative Mobley

HB 13, Representative Mobley

HB 17, Representatives Watkins and Combs

HB 21, Representative Mobley

HB 41, Representative Watkins

HB 48, Representative Mobley

HB 51, Representative Osborne

HB 97, Representative Santoro

HB 99, Representative Graham

HB 109, Representative Osborne

HB 125, Representative Osborne

HB 127, Representative Osborne

HB 139, Representative Osborne

HB 143, Representative Burch

HB 171, Representative Mobley

HB 185, Representative Miller

HB 189, Representatives Santoro and Osborne

HB 191, Representative Westrom

HB 201, Representative Clark

Announcements

Minority Caucus, upon adjournment, Room 125

Adjournment

Representative Adkins moved to adjourn until the hour of 12:00 noon. on Tuesday, February 6, 2007.

The motion that the House adjourn until 12:00 noon., Tuesday, February 6, 2007, was adopted by voice vote.

TUESDAY, FEBRUARY 6, 2007

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Dr. John C. Chenault, First Christian Disciples of Christ Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of January 5, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Representative Adkins moved that the rules be suspended and that the House stand at ease for a Committee on Committees meeting. Agreed.

Introduction of Bills and Resolutions

HB 4, by Representatives Marzian, Webb, Stein, and Jenkins: AN ACT relating to boards and commissions.

HB 8, by Representative Yonts: AN ACT relating to government contracts.

HB 10, by Representative Nelson: AN ACT relating to health benefits provided by state universities and colleges.

HB 220, by Representative Nelson: AN ACT relating to state employees' personnel rights.

HB 221, by Representative Nelson: AN ACT relating to compulsory school attendance.

HB 222, by Representative Nelson: AN ACT relating to the school work day.

HB 223, by Representative Nelson: AN ACT relating to retirement.

HB 224, by Representative Nelson: AN ACT relating to the runoff primary and declaring an emergency.

HB 225, by Representatives Tilley and Wilkey: AN ACT relating to wounded or disabled veterans.

HB 226, by Representatives Wilkey and Hoover: AN ACT relating to the Public Service Student Law School Loan Assistance Program and making an appropriation therefor.

HB 227, by Representative Wilkey: AN ACT relating to the Kentucky Economic Development Partnership.

HB 228, by Representative Wilkey: AN ACT relating to consumer protection.

HB 229, by Representative Pullin: AN ACT relating to teacher scholarships.

HB 230, by Representative Adams: AN ACT relating to the operation of school buses.

HB 231, by Representative Adams: AN ACT relating to coyotes.

HB 232, by Representative Henley: A RESOLUTION requesting that Kentuckians observe "Spay Day USA" 2007 by having their dogs and cats spayed or neutered, and by contributing to charitable organizations that provide spay and neuter services.

HB 233, by Representative Burch: AN ACT relating to pharmacists.

HB 234, by Representative Draud: AN ACT relating to the child care center rating system.

HB 235, by Representative Draud: AN ACT relating to school readiness.

HB 236, by Representative Yonts: AN ACT relating to the use of juries in competency hearings conducted in guardianship proceedings.

HB 237, by Representative Napier: AN ACT relating to pension systems of urban county governments.

HR 42, by Representative Pullin: A RESOLUTION honoring the 100th anniversary of the School of Human Environmental Sciences, formerly the College of Home Economics, at the University of Kentucky.

HR 43, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Suddith Rawlings.

HR 44, by Representative Adkins: A RESOLUTION to amend Rule 39 and Rule 42 of the Rules of Procedure governing the 2007 Session of the House of Representatives.

HR 45, by Representative Yonts: A RESOLUTION urging Congress to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).

HCR 46, by Representative Yonts: A CONCURRENT RESOLUTION urging Congress to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).

Representative Adkins moved that the rules be suspended for a Committee on Committees meeting. Agreed.

Representative Rasche moved that the rules be suspended to allow the Committee on Education to meet to consider **HB 64** and **HCR 26**. Agreed.

Representative Adkins moved that the posting requirement be waived retroactively on **HB 64** and **HCR 26**. Agreed.

Representative Adkins moved that the posting requirement be waived on **HB 1, 2, 3, 4, 5, 17, 53, 62, 63, 79, 91, 120, 142, 192, 94, 202, 203, 219, 226, HCR 28, 30, 33**, and **HJR 14**

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 192, 202, 203**

Appropriations and Revenue: **HB 193, 218**

Education: **HB 195, 197, 208, 210**

Health and Welfare: **HB 196**

Judiciary: **HB 194, 198, 199, 200, 205, 211, 214, 217**

Labor and Industry: **HB 206, 219**

Local Government: **HB 201**

Natural Resources and Environment: **HB 204, 207, 216**

Seniors, Military Affairs and Public Safety: **HB 213**

State Government: **HB 209, 212**

Transportation: **HB 215, HR 40**

House Floor: **HR 39**

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 1, 6**

Education: **HB 2**

Judiciary: **HB 3, 226**

Labor and Industry: **HB 4**

Natural Resources and Environment: **HB 5**

State Government: **HB 8**

Report of Committees

The Committee on Committees Report provided the following committee changes:

Appoint the following members to:

Labor and Industry

Rep. Tim Firkins, Vice Chair

Agriculture and Small Business

Rep. Dottie Sims

Rep. David Osborne

Banking and Insurance

Rep. Adam Koenig

Economic Development

Rep. Addia Wuchner

Education

Rep. Milward Dedman

Tourism Development and Energy

Rep. Larry Belcher

Budget Review Subcommittee on Justice and Judiciary

Rep. Kathy Stein, ex officio

Rules Committee

Rep. Arnold Simpson

Rep. Tanya Pullin

Rep. Stan Lee

Remove the following members from:

Labor and Industry

Rep. Dottie Sims

Banking and Insurance

Rep. Addia Wuchner

Rules Committee

Rep. Ken Upchurch

Tourism Development and Energy

Rep. Tanya Pullin

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 107, 114, 122, 168**

Health and Welfare: **HB 53, 91, 142**

Natural Resources and Environment: **HB 136, 186, 137**

State Government: **HB 23, 62, 71, 78, 99, 130, 181**

Report of Committees

The Committee on Education reported **HB 64** and **HCR 26** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 64, AN ACT relating to the safety, learning, and well-being of students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.440 is amended to read as follows:

The General Assembly finds that:

(1) Every student should have access to a safe, secure, and orderly school that is conducive to learning;

(2) All schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at risk of academic failure or ***are***~~[of]~~ engaging in disruptive and disorderly behavior***, including but not limited to the harassment, intimidation, or bullying of another student***; and

(3) State and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that lead to success in addressing safety and discipline within the schools.

Section 2. KRS 158.441 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) ***"Harassment, intimidation, or bullying" means a repeated verbal, nonverbal, or written communication transmitted; repeated physical acts committed; or any other repeated behavior committed by a student against another student on school premises, on school-sponsored transportation, or at a school-sponsored event with intent to injure, intimidate, alienate, or threaten another student that results in:***

(a) Physically harming a student;

(b) Damaging or stealing a student's property;

(c) Substantially disrupting the orderly operation of the school; or

(d) Creating a hostile environment that substantially interferes with a student's educational benefits, opportunities, or performance.

This definition shall not be interpreted to prohibit civil exchange of opinions or debate or cultural practices protected under the state or federal Constitution if the opinion expressed does not otherwise materially or substantially disrupt the education process.

(2) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.

(3)~~[(2)]~~ "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district.

Section 3. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop:

(a) Statewide student discipline guidelines to ensure safe schools; and

(b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.

(3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

(4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board.

(a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

(b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.

(c) ***The code shall prohibit the harassment, intimidation, or bullying of a student, defined in a manner no less inclusive than that defined in Section 2 of this Act, and shall contain the following:***

1. Procedures for identifying, documenting, and reporting an incident of harassment, intimidation, or bullying;

2. Procedures for the prompt investigation of and response to a complaint;

3. A strategy for protecting a complainant from retaliation following a report; and

4. A process for annually discussing the code with students and their parents or legal guardians and for informing the students and their parents or legal guardians of the consequences of violating the code.

(d) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.

(e)[~~(d)~~]A copy of the code of behavior and discipline adopted by the board of education shall be posted ***in a prominent location in***[~~at~~] each school ***office***. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents shall be provided copies of the code.

(f) A local school district shall:

1. Provide training to school employees who have direct contact with students on the district's code of acceptable behavior and discipline strategies to identify, report, respond to, investigate, prevent, and encourage the students' reporting of harassment, intimidation, and bullying, to the extent state or federal funds are appropriated and available for these purposes;

2. Incorporate information regarding the code of acceptable behavior and discipline in employee training provided by the district; and

3. Ensure that all schools inform students and their parents or legal guardians annually of the contents of the district's code of acceptable behavior and discipline and implement a process for discussing the code with students.

(g) A school council that proposes to adopt an instructional program or curriculum to instruct students on issues regarding harassment, intimidation, or bullying shall:

1. Notify parents or legal guardians in a timely manner of the right to inspect and review instructional material prior to adoption;

2. Provide parents or legal guardians the opportunity to inspect and review the instructional material prior to adoption;

3. Offer parents or legal guardians the opportunity to comment upon the proposal prior to adoption; and

4. Offer parents or legal guardians the opportunity to opt out their students from instructional programs or curriculum regarding harassment, intimidation, or bullying, but inform parents or legal guardians that students who are opted out shall remain subject to the policy that prohibits harassment, intimidation or bullying of students.

Section 4. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, ***the harassment, intimidation, or bullying of other students,*** the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school ***or other appropriate disciplinary action***; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use

the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.

(3) For purposes of this subsection, "charges" means substantiated behavior that falls within the grounds for suspension or expulsion enumerated in subsection (1) of this section, including behavior committed by a student while enrolled in a private or public school, or in a school within another state. A school board may adopt a policy providing that, if a student is suspended or expelled for any reason or faces charges that may lead to suspension or expulsion but withdraws prior to a hearing from any public or private school in this or any other state, the receiving district may review the details of the charges, suspension, or expulsion and determine if the student will be admitted, and if so, what conditions may be imposed upon the admission.

(4) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(5) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(6) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(7) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

1. The child is removed for more than ten (10) consecutive days during a school year; or

2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(8) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

(9) Any action under this section related to students with disabilities shall be in compliance with applicable federal law.

Section 5. KRS 158.444 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.

(2) The Kentucky Department of Education shall:

(a) Collaborate with the Center for School Safety in carrying out the center's mission;[~~ and~~]

(b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:

1. All ***incidents***[~~incidences~~] of violence and assault against school employees and students; ***incidents***[~~incidences~~] of possession of guns or other deadly weapons on school property or at school functions; ***incidents***[~~and incidences~~] of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions; ***and incidents in which an individual student has been disciplined for harassment, intimidation, or bullying three (3) times in a single semester or where an individual student has been the object of three (3) or more separate documented incidents of harassment, intimidation, or bullying in a single semester;***

2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;

3. The number of suspensions, expulsions, and corporal punishments; and

4. Data required during the assessment process under KRS 158.445***; and***[~~.~~]

(c) [~~The department shall~~]Provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.

SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) All personally identifiable student data collected pursuant to subsection (2)(b) of Section 5 of this Act shall be subject to the confidentiality provisions of the Kentucky Family Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its implementing regulations.

(2) Parents or legal guardians shall have the right to inspect or challenge the personally identifiable student records as permitted under the Kentucky Family Education Rights and Privacy Act and the federal Family Educational Rights and Privacy Act and implementing regulations.

(3) Data collected on an individual student under Section 5 of this Act shall be placed in the student's disciplinary record.

SECTION 7. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

A school employee or student shall be individually immune from a cause of action for damages arising from reporting in good faith an incident of a student's disruptive or disorderly behavior if school and school district procedures are followed regarding the report.

HCR 26, A CONCURRENT RESOLUTION confirming the appointment of Judith H. Gibbons to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed, by Executive Order 2006-505, Judith H. Gibbons as a member of the Kentucky Board of Education representing the Sixth Supreme Court District for a term expiring April 14, 2010; and

WHEREAS, by letter dated May 9, 2006, the Governor has delivered Judith H. Gibbons's name for confirmation as a member of the board, as required by KRS 11.160, to replace Gail W. Wells, Fort Thomas, who has resigned; and

WHEREAS, the House of Representatives and the Senate find that Judith H. Gibbons meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Judith H. Gibbons to the Kentucky Board of Education for a term ending April 14, 2010.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and Judith H. Gibbons, 109 Brittany Court, Lakeside Park, Kentucky 41017-2101, in writing, of the General Assembly's action.

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **HB 103**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 296, by Representatives Jenkins, Brinkman, Owens, and Marzian: AN ACT relating to workers' compensation self-insurance.

HB 297, by Representatives Koenig and Fischer: AN ACT relating to code enforcement boards.

HB 298, by Representatives Osborne and Butler: AN ACT relating to unpasterized milk.

HB 300, by Representatives Fischer and Harmon: AN ACT proposing an amendment to Section 54 of the Constitution of Kentucky.

HB 304, by Representative Gray: AN ACT relating to motor vehicle fuel pricing.

HB 305, by Representative Gray: AN ACT relating to increasing the state minimum wage.

HB 291, by Representatives Henderson, Moberly, Richards, and Henley: AN ACT relating to the Kentucky educational excellence scholarship program.

HB 299, by Representatives Wuchner, Westrom, Rader, Stein, C. Belcher, Webb, Marzian, Palumbo, Combs, and Sims: AN ACT relating to healthy children.

HB 301, by Representatives Meeks and Burch: AN ACT relating to the operation of a motor vehicle.

HB 302, by Representative Bell: AN ACT relating to concealed deadly weapons.

HB 303, by Representative Gray: AN ACT relating to workers' compensation.

HB 306, by Representative Richards: AN ACT relating to the Academy of Mathematics and Science in Kentucky and declaring an emergency.

HB 307, by Representative C. Belcher: AN ACT relating to occupational license fees.

HB 308, by Representatives Tilley and Vincent: AN ACT relating to criminal Justice.

HB 309, by Representatives Firkins, Jenkins, Weston, Brinkman, L. Belcher, Tilley, Koenig, Dossett, Combs, and Henderson: AN ACT relating to truancy.

HB 310, by Representatives Firkins and Weston: AN ACT relating to motor vehicle renting companies.

HB 311, by Representatives Glenn, Meeks, Rollins, L. Belcher, Watkins, and Firkins: AN ACT relating to a teacher institute regarding financial literacy and economic education.

HB 312, by Representative Brinkman: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable, or the lack of an appropriate procurement document in place, and declaring an emergency.

HB 313, by Representative Webb: AN ACT relating to the development of primary care centers.

HB 316, by Representative Moberly: AN ACT relating to certain tax refund suits and declaring an emergency.

HB 317, by Representative Ballard: AN ACT relating to the compensation of elected county officials.

HB 318, by Representative Jenkins: AN ACT relating to labor-management negotiations.

HB 319, by Representative Firkins: AN ACT relating to tourism development.

HB 320, by Representatives Koenig and Simpson: AN ACT relating to voyeurism.

HB 321, by Representative C. Belcher: AN ACT relating to delinquent property taxes.

HB 238, by Representatives Westrom and Adams: AN ACT relating to sales and use tax.

HB 239, by Representative Westrom: AN ACT relating to large group health benefit plans.

HB 240, by Representative Denham: AN ACT relating to solid waste.

HB 241, by Representative Westrom: AN ACT relating to jurors.

HB 243, by Representative Thompson: AN ACT relating to the Kentucky Single Family Dwellings Advisory Board.

HB 242, by Representative Denham: AN ACT relating to coroners.

HB 244, by Representative J. Lee: AN ACT relating to providers of hospital services.

HB 245, by Representative Thompson: AN ACT relating to self-contained storage units.

HB 246, by Representative Ford: AN ACT relating to deceptive business practices.

HB 247, by Representative Crenshaw: AN ACT relating to hazardous duty retirement.

HB 248, by Representative Farmer: AN ACT relating to notary publics.

HB 249, by Representative Farmer: AN ACT relating to income taxation.

HB 250, by Representative Edmonds: AN ACT relating to credit cards.

HB 251, by Representatives Fischer and Harmon: AN ACT relating to proposing an amendment of the Constitution of Kentucky relating to abortion.

HB 252, by Representative Burch: AN ACT relating to drug importation.

HB 253, by Representative Burch: AN ACT relating to identification cards for people experiencing homelessness.

HB 254, by Representative Burch: AN ACT relating to gift cards.

HB 255, by Representative Burch: AN ACT relating to a health insured's right to obtain an estimate of his or her liability from an insurer.

HB 256, by Representative Burch: AN ACT relating to importation of prescription drugs through the I-SaveRx program.

HB 257, by Representative C. Belcher: AN ACT relating to elder care income tax credits.

HB 258, by Representative C. Belcher: AN ACT relating to local taxation.

HB 259, by Representative C. Belcher: AN ACT relating to the practice of accounting.

HB 260, by Representative C. Belcher: AN ACT relating to consumer credit.

HB 261, by Representatives C. Belcher and Ballard: AN ACT relating to natural gas rate stabilization.

HB 262, by Representatives C. Belcher and Moberly: AN ACT relating to fiscal matters.

HB 263, by Representative Comer: AN ACT relating to voter assistance.

HB 264, by Representative Riggs: AN ACT relating to criminal justice.

HB 265, by Representative Bell: AN ACT relating to sales tax holidays and declaring an emergency.

HB 266, by Representative Bell: AN ACT relating to the restoration of the privilege to operate a motor vehicle.

HB 267, by Representative Edmonds: AN ACT relating to retirement.

HB 268, by Representative Baugh: AN ACT relating to hardship driver's licenses.

HB 269, by Representative Stein: AN ACT relating to nursing homes.

HB 270, by Representative Montell: AN ACT relating to animals.

HB 271, by Representatives Owens and Webb: AN ACT relating to damages.

HB 272, by Representative Owens: AN ACT relating to post-conviction relief.

HB 273, by Representative Rand: AN ACT relating to county law libraries.

HB 274, by Representatives Webb and Owens: AN ACT relating to attorneys fees in usury actions.

HB 275, by Representative Webb: AN ACT relating to durable powers of attorney.

HB 276, by Representatives C. Belcher and Moberly: AN ACT relating to income taxation.

HB 277, by Representatives Greer and Butler: AN ACT relating to peace officer certification.

HB 278, by Representatives Jenkins and Wilkey: AN ACT relating to cigarettes.

HB 279, by Representative Bratcher: AN ACT relating to compulsory school attendance.

HB 280, by Representative Damron, C. Belcher, and Ballard: AN ACT relating to military burials.

HB 281, by Representative Damron: AN ACT relating to local finical obligations.

HB 282, by Representative Damron: AN ACT relating to continuing care retirement communities.

HB 283, by Representative Damron: AN ACT relating to naming and designating the official state wine festival.

HB 284, by Representative Damron: AN ACT relating to traffic safety.

HB 285, by Representative Rasche: AN ACT relating to nonresident student contracts.

HB 286, by Representative Riner: AN ACT relating to proposing amendments to the Constitution of Kentucky relating to volunteer health professionals.

HB 287, by Representative Riner: AN ACT relating to the Uniform Emergency Volunteer Health Practitioners ACT.

HB 288, by Representative Siler: AN ACT relating to licensure of professionals who provide therapeutic care to persons with hearing and related communication disorders.

HB 289, by Representatives Graham and Rollins: AN ACT relating to the Agricultural Development Board.

HB 290, by Representative Rollins: AN ACT relating to minimum staffing requirements for long-term care facilities.

HB 292, by Representative Moberly: AN ACT relating to income taxes.

HB 293, by Representative Meeks: AN ACT relating to establishing the first day of November as Native American Indian Day in the Commonwealth.

HB 294, by Representative DeCesare: AN ACT designating Bowling Green, Kentucky, as the birthplace of newgrass music and Sam Bush as the Father of New Grass Music in the Commonwealth.

HB 295, by Representative Richards: AN ACT relating to an annual report to citizens on the finances, operations, and management of state government.

HB 314, by Representative Butler: AN ACT relating to foster care parents.

HB 315, by Representatives Miller, Siler, Horlander, Collins, Keene, Stein, Sims, McKee, Gray, A. Smith, Damron, Adams, Adkins, Hoffman, Weston, Stacy, and Butler: AN ACT relating to leaves of absence for teachers .

HB 322, by Representative Simpson: AN ACT relating to restraining orders upon conviction of a sexual offense.

HB 323, by Representative Stewart: AN ACT relating to railroad crossing signals.

HB 324, by Representatives Marzian and Draud: AN ACT relating to the taxation of tobacco products and making an appropriation therefor.

HB 325, by Representative Adkins: AN ACT relating to reorganization.

HB 1, by Representatives Richards, Moberly, Collins, Clark, Wilkey, Adkins, and Hoffman: AN ACT relating to appropriations and other measures line-item vetoed by the Governor at the 2006 Regular Session, and declaring an emergency.

HB 3, by Representative Wilkey: AN ACT proposing to amend Section 77 of the Constitution of Kentucky, relating to the Governor's power to remit fines and forfeitures and grant reprieves and pardons.

HB 2, by Representative Richards: AN ACT relating to the Kentucky educator award and recognition fund.

HB 5, by Representatives Adkins and Pullin: AN ACT relating to energy efficiency measures.

HB 6, by Representatives Rollins and Moberly: AN ACT creating the Kentucky Family Trust Program.

HJR 50, by Representative C. Belcher: A JOINT RESOLUTION naming "Thoroughbred Run," the Paris By-Pass in the City of Paris, in honor of Dr. Martin Luther King, Jr.

HR 51, by Representative Stein: A RESOLUTION adjourning the House of Representatives in loving memory and honor of the late Michael Thompson.

HJR 52, by Representatives Vincent and Adkins: A JOINT RESOLUTION naming U.S. Highway 60 from the Ashland City limit to Beech Street in the city of Ashland in honor of Ashland native and Major League Baseball player Brandon Webb, 2006 National League Cy Young Award winner.

HCR 53, by Representative Meeks: A CONCURRENT RESOLUTION directing a study of the use of mascots, flags, and symbols in the public schools.

HJR 54, by Representatives Meeks, Owens, Glenn, Jenkins, Burch, Wayne, Marzian, Miller, Simpson, Graham, Horlander, and Hoffman: A JOINT RESOLUTION naming Interstate 65 in Jefferson County in honor and memory of Dr. Martin Luther King, Jr.

HR 55, by Representative Rollins: A RESOLUTION adjourning the House of Representatives in memory and honor of Thomas Taylor Jr.

HR 56, by Representative Rollins: A RESOLUTION adjourning the House of Representatives in memory and honor of William Frank Baker.

HR 57, by Representatives Adams and Rollins: A RESOLUTION adjourning the House of Representatives in honor of Glenna Cox Schrader, upon the occasion of the 80th anniversary of her birth.

HR 58, by Representative Rollins: A RESOLUTION adjourning the House of Representatives in honor of Ronnie Dunn, upon her election as International President of Optimist International.

HR 59, by Representative Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Harold B. Travis.

HR 60, by Representative Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of the late Reverend Kidd Leon Moore, Jr.

HR 61, by Representatives Richards and Ballard: A RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veterans' Affairs.

HR 62, by Representatives McKee and Denham: A RESOLUTION honoring Kentucky's farmers for providing us with the most affordable food in the world, and recognizing February 6, 2007, as Food Checkout Day.

HR 63, by Representative DeCesare: A RESOLUTION honoring Lisa Hussung, Kentucky Elementary School Music Teacher of the Year.

HR 64, by Representatives Crimm, Wuchner, Fischer, Ford, Higdon, Harmon, Montell, Couch, Baugh, Floyd, Rader, Upchurch, Vincent, Rudy, Moore, Osborne, Mobley, Kerr, Draud, Henley, DeCesare, Dedman, Koenig, Sims, Butler, Siler, Dossett, Turner, Bratcher, DeWeese, Hoover, Stewart, Comer, Brinkman, and S. Lee: A RESOLUTION recognizing February 6, 2007, as "Ronald Reagan Day" in the Commonwealth of Kentucky.

HR 65, by Representatives Meeks and Crenshaw: A RESOLUTION honoring Kentucky State University for the assistance it has provided to the people of Darfur.

HJR 66, by Representative Gray: A JOINT RESOLUTION honoring Jesse R. Green of Marshall County, the Skills USA Kentucky state welding champion, by placing signs on U.S. Highway 641 by the entrance of Marshall County Technical Center and on U.S. Highway 68 in front of the Marshall County Technical Center that read "Home of Jesse R. Green Skills USA Kentucky State Welding Champion."

HCR 67, by Representative Gray: A CONCURRENT RESOLUTION creating a task force of the Legislative Research Commission to study child adoption laws.

HR 68, by Representatives DeCesare and Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Miss Abby Ellen Cummings.

HR 69, by Representatives DeCesare and Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of young Logan Thomas Byard.

HCR 70, by Representative Glenn: A CONCURRENT RESOLUTION directing the Legislative Research Commission staff to study county emergency call center funding.

HCR 71, by Representative Burch: A CONCURRENT RESOLUTION relating to single-payor health insurance.

HJR 72, by Representative Hall: A JOINT RESOLUTION honoring bluegrass music legend Colonel Larry Fuller by directing the Transportation Cabinet to erect signs at the Kentucky Route 194 exists off of U.S. Highway 119 that read "Colonel Larry Fuller Band."

HR 73, by Representative Hall: A RESOLUTION requesting an evaluation of the Telecheck deer harvest check-in program and specifications for legal handguns used when taking deer.

HCR 47, by Representative Denham: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Agriculture and Natural Resources to investigate the necessity of a State Rural Development Council that would review and implement rural development policies to improve the quality of life for citizens in the rural areas of Kentucky.

HJR 74, by Representative Hall: A JOINT RESOLUTION naming the old bridge on Kentucky Route 80/U.S. Highway 460 in the town of Millard, in Pike County, in memory of Bennett Shortridge.

HCR 75, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Rebecca S. Goss to the Education Professional Standards Board.

HCR 76, by Representative Adkins: A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee to evaluate the report issued by the Cabinet for Health and Family Services, Office of the Inspector General, on the removal of children and termination of parental rights by the Department for Community Based Services based on alleged abuse, neglect, or dependency and to report findings and recommendations to the Legislative Research Commission.

HR 49, by Representative Westrom: A RESOLUTION urging the Cabinet for Health and Family Services to include chronic obstructive pulmonary disease in their chronic disease initiatives.

HR 48, by Representative Thompson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Morton J. Holbrook, Jr.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

Economic Development: **HB 69**

The Committee on Committees corrected the previous report on this day to reflect the name of a committee as the Committee on Economic Development rather than the Committee on Economic Development and Tourism.

Representative Adkins moved to suspend the rules to waive the posting requirement on **HB 16** and **HB 287**. Agreed.

Motions, Petitions and Communications

Representative Ford moved the adoption of the following **Legislative Citation No. 9**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in honor of The Kentucky Auctioneers Association and recognizes its founding on September 22, 1957, for the purpose of serving as a much-needed professional association for auctioneers throughout the Commonwealth of Kentucky. Inasmuch as the Kentucky Auctioneers Association will hold its 50th Annual State Convention on February 17 through 19, 2007, in Lexington, Kentucky, the members of this honorable body are delighted to join with Representative Danny Ford in honoring the members of the Kentucky Auctioneers Association, past and present, who have shone forth as leaders in Kentucky, serving as members of this body as well as of the Kentucky Board of Auctioneers and of other elective and appointive offices in their local communities; whose members and officers have advocated that this body enact measures to protect auction consumers and to professionalize the auctioneering industry; whose members have, since the founding of the Kentucky Auctioneers Association, often served as auctioneers at charity and benefit auctions for schools, religious institutions and groups as well as other non-profit groups within their communities and across the Commonwealth; and, whose members have generously served as directors and officers of the National Auctioneers Association, the professional association of auction professionals across the length and breadth of the United States of America. It is with appreciation and gratitude that this august body adjourns this legislative day in honor of the contributions to the public good that have been made by the Kentucky Auctioneers Association throughout the past fifty years. Done in Frankfort, Kentucky, this sixth day of February, in the year two thousand and seven.

Legislative Citation No. 9 was adopted without objection.

Representative Crimm moved the adoption of the following **HR 64**:

HR 64, A RESOLUTION recognizing February 6, 2007, as "Ronald Reagan Day" in the Commonwealth of Kentucky.

WHEREAS, President Ronald Wilson Reagan, a man of humble background, worked throughout his life serving freedom and advancing the public good, having been employed as an entertainer, union leader, corporate spokesman, Governor of California, and President of the United States. He served with honor and distinction for two terms as our president, and in his second election, he earned the confidence of three-fifths of the electorate and was victorious in 49 of the 50 states in the general election, a record unsurpassed in American history; and

WHEREAS, in 1981, when Ronald Reagan was inaugurated President, he inherited a disillusioned nation shackled by rampant inflation and high unemployment. However, during his presidency, he worked in a bipartisan manner to enact his bold agenda of restoring accountability and common sense to government, leading to an unprecedented economic expansion and opportunities for millions of Americans; and

WHEREAS, President Reagan's commitment to an active social policy agenda for the nation's children helped lower crime and drug use in our neighborhoods, and his commitment to our Armed Forces contributed to the restoration of pride in America, her values, and those cherished by the free world, and prepared America's Armed Forces to meet 21st century challenges. His vision of "peace through strength" led to the end of the Cold War and the ultimate demise of the Soviet Union, guaranteeing basic human rights for millions of people; and

WHEREAS, February 6, 2007, will be the 96th anniversary of Ronald Reagan's birth, and the third since his passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby recognizes and declares February 6, 2007, as "Ronald Reagan Day" in the Commonwealth of Kentucky, and urges all citizens of our state to take cognizance of this event and participate fittingly in its observance.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Ronald Reagan Legacy Project, 1920 L Street NW, Suite 200, Washington, D.C. 20036.

There being no objection, **HR 64** was adopted.

Representative Thompson moved the adoption of the following **HR 48**:

HR 48, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Morton J. Holbrook, Jr.

WHEREAS, Morton J. Holbrook, Jr. was born on September 15, 1914, the son of the late Morton J. and Ida Simpson Holbrook, and departed this life on August 25, 2006, at the age of 91 years. A native of Daviess County, Mr. Holbrook graduated from Whitesville High School, the University of Kentucky, and Harvard University Law School. Upon graduation from law school, he practiced law in Owensboro and was appointed as a United States commissioner. He served his country in World War II under the command of Gen. George Patton with the Third Army, received the Bronze Star with five battle stars, and was discharged as a major; and

WHEREAS, following the war, Mr. Holbrook returned to Owensboro to continue his practice of law and embark on a remarkable career of service at the state and local level. In 1948, he served on the state judicial review committee that, by 1952, revised the state courts' rules of procedure. In the early 1970s, he served with Kentucky Citizens for Judicial Improvement, which helped draft the constitutional amendment that modernized the Kentucky judicial system. He served as attorney for the Daviess County Board of Education, was a founding member of the Prichard Committee, chaired the Urban County Charter Commission, and was active with the Owensboro-Daviess County Industrial Foundation. In 1980, he began ten years of service with the Kentucky Council on Higher Education, helping establish the Owensboro Community and Technical College. He retired in 1994 from his law firm, Holbrook, Wible, Gary and Sullivan; and

WHEREAS, Mr. Holbrook was a local leader of the Democratic Party and twice served as a delegate to the Democratic National Convention, and was an advisor to Governor Earl Clements and Governor Wendell Ford; and

WHEREAS, Mr. Holbrook's many interests included a devotion to the Bible and fondness for the writings of Shakespeare. He was a member of First Christian Church. His hobbies included horseback riding, short-wave radio, bicycling, tennis, and golf, and he greatly enjoyed music, especially operatic and symphonic. He was instrumental in the development of the RiverPark Center and at one time chaired the board of the Owensboro Performing Arts Center; and

WHEREAS, the Kentucky Bar Association recognized Mr. Holbrook as its outstanding lawyer in 1968. He received numerous other awards: the University of Kentucky inducted him into its Hall of Distinguished Alumni; Kentucky Educational Television named him a "Distinguished Kentuckian"; Leadership Owensboro awarded him its William R. and Marilyn F. Young Award for Community Leadership; and the American Judicature Society presented him the Herbert Harley Award for his work with Kentucky Citizens for Judicial Improvement. He received the first Joseph Hamilton Daviess Award, presented to an attorney who has performed extraordinary public service. In September, 2004, for the occasion of his 90th birthday, the Daviess Fiscal Court named the county's judicial center in his honor -- the Morton J. Holbrook Jr. Judicial Center; and

WHEREAS, preceded in death by four sisters and two brothers, Mr. Holbrook is survived by his loving wife of 65 years, Margaret Kincheloe Holbrook; sons Morton J. Holbrook III and Allen W. Holbrook; and six grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of Morton J. Holbrook, Jr., and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Morton J. Holbrook, Jr.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Margaret Kincheloe Holbrook, 26 Stone Creek Park, Owensboro, Kentucky 42303.

There being no objection, **HR 48** was adopted.

Representative Adkins moved that the House recess; that no further business be conducted on this day except for the convening of a Joint Session with the Senate at 7:00 p.m. for the Governor's State of the Commonwealth Address; and that when the House does adjourn it does so until 2:00 p.m. on Wednesday, February 7, 2007. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that floor privileges be granted to special guests and Constitutional Officers. Agreed.

Representative Adkins moved that the House and Senate resolve into Joint Session. Agreed.

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Joint Session

Prayer by Rabbi Emeritus H. D. Uriel Smith, Ohavay Zion Synagogue, Lexington, Kentucky.

The President of the Senate led the members in the Pledge of Allegiance to the flag.

Representative Adkins moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky, The Honorable Ernie Fletcher.

Governor Ernie Fletcher addressed the Joint Session of the General Assembly as follows:

STATE OF THE COMMONWEALTH
BY GOVERNOR ERNIE FLETCHER
TUESDAY, FEBRUARY 6, 2007 - 7:00 p.m.

Let's start by having a moment of silence for the people who lost their lives this morning in Nelson County.

First Lady, Constitutional Officers, Chief Justice Lambert, Justices, President Williams, Speaker Richards, Legislators and my fellow Kentuckians. I want to begin by welcoming Kentucky's new legislators to this august body. I also want to welcome and recognize our new justices.

I had the honor of appointing Justice McAnulty, the first African-American to serve on Kentucky's Supreme Court. Congratulations to you and to the people of Jefferson County on your election.

This is the first short session where we don't have to write a budget; in that sense it is historic.

A little over three years ago I gave my first State of the Commonwealth address.

Prisoners released early to balance the budget were committing crimes

Elderly and disabled patients saw their nursing home benefits slashed Employment was stagnant and revenues dropped.

We faced a large deficit.

TAX REFORM

Proposals of tax increases came from many voices. They said raising taxes was the only way to fund education. Together, we decided, that wasn't the real solution to our problem.

We lived within our means and reformed our taxes, lowered the income tax on 78 percent of working Kentuckians and reduced the tax margin on businesses by nearly 30 percent. We funded those changes by closing loop-holes for out of state businesses and raising the cigarette tax. It may not have been the easy answer, but it honored our dedication to a guiding set of conservative principles. And it worked. We are encouraging growth, restoring hope and creating opportunity.

GOVERNMENT EFFICIENCY

Three years ago, with thrift, courage and vision, we faced the challenge before us. The thrift to wean government from much waste and inefficiency. We reduced the size of government by over 2,000 employees through attrition. We increased the collection of delinquent taxes by 54 million dollars per year.

We now have over 80 million dollars more to build roads in your communities because we tightened change orders and reduced bureaucracy in transportation. We faced our challenge with the courage to reform. We substantially reformed an antiquated tax system.

We transformed state employee health insurance to a self-insured program, saving millions in cost increases and keeping benefits stable. And we reformed Medicaid – ending decades of neglect. And we answered our challenge with the vision to build more than ever in our history.

We built roads and bridges that are so much more than asphalt and concrete; they are safer paths to expanding dreams, new horizons and over 100,000 new jobs. By creating an atmosphere of growth, we now have more people working than ever before. Businesses are more profitable. New companies are springing up all across the state and the country is now looking to Kentucky as an emerging biotech player.

We built places of learning and research to strengthen hope, build careers and prepare a smarter, more capable workforce. And we did it without cutting benefits for our most vulnerable citizens and without raising taxes.

VALUES

We designed our reform with time-honored and proven values. From the Old Testament we are admonished to "Execute true justice, Show mercy and compassion'. I believe we have followed those values--

Treating our vulnerable more compassionately
Providing better protection and justice for our unborn
Caring for our newborns more thoroughly
And strengthening our commitment to education and to those who teach our children.

We're also redeeming the lives of those ravaged by drugs and toughening the laws against those who manufacture illegal drugs. We're ensuring that Kentucky ages gracefully. In fact, recently I created the Department for Aging and Independent Living. Finally, Frankfort will provide a clear voice of advocacy on behalf of aging and disabled Kentuckians.

Already this new department is implementing a Long Term Living Initiative to develop a single place to find information and resources so aging and disabled Kentuckians can find the best care-- in the right setting. In just three years, we have made a difference-- sometimes a difference between life and death. Rebecca Gambrel never wore her seat belt and was angered when she heard of the Primary Seat Belt Law passed. Yet, she didn't want to break the law, so she buckled up.

On October 11, 2006, Rebecca was in a head-on collision. The officers who responded said, "You're one lucky lady! Your seatbelt saved your life." Now, no one rides in Rebecca's car without their seat belt. Rebecca is with us tonight to thank you for passing the seat belt law. Please welcome her.

Tonight, I'd also like for us to recognize a Kentuckian -- one who epitomizes the bravery of each of our soldiers. This soldier showed remarkable courage during an intense battle against al Qaeda and Taliban fighters in Afghanistan. On March 4, 2002, his demonstration of pure valor helped ten wounded Americans receive life-saving treatment and led to the recovery of seven servicemen killed during grenade and mortar attacks. Please welcome Silver Star recipient: Master Sergeant Keary Miller.

TEAM WORK

More than 8,500 National Guard soldiers and airmen were deployed to fight the Global War on Terror. They understand the teamwork that is necessary for a mission's success.

Recently, we witnessed two other examples of what can be accomplished when you assemble a great team. In fact, when was the last time a Kentucky Governor accompanied two football teams to winning bowl games? UK and U of L have never won bowl games in the same season.

Coach Brooks is with us tonight. Please join me in congratulating him, his team and the University of Kentucky on a fantastic season and winning the Music City Bowl.

I also congratulate the University of Louisville football team for an excellent season and its victory in the Orange Bowl. I'm proud to welcome Quarterback Brian Brohm and his father, Oscar. Brian was considering an early entry into the NFL draft, but decided to stay for one last shot at a national championship. Brian, we'd like to see you get there. Thank you for joining us tonight.

Wins like this are good for all of Kentucky and help us recruit not only talent for the field but also for the classroom and the laboratory. I have assembled one of the finest teams this state has ever seen--- and that this team does an excellent job implementing the legislation you pass as well as helping you serve your constituents. For their expertise and hard work, join me in thanking our Cabinet Secretaries, their staff and all of Kentucky's public servants.

A year ago this body passed a robust budget that took on nearly twice the debt of any previous one in our history. The budget included sound investments in education and infrastructure. However, I vetoed some projects to avoid assuming a debt level that threatened the state's bond rating. The vetoes accomplished our goal. Wall Street respected our responsible actions. As a result, Kentucky's outlook from Standard and Poor's was moved from stable to positive. Our revenues are so improved, that our debt ratio, even after restoring projects, will be less than the budget with the vetoed projects.

WHERE WE GO FROM HERE

Tonight, I am here to report that the state of the Commonwealth is much stronger and healthier than it was three years ago, but we still have challenges that lie ahead in order to reach the goals that I laid out for the next decade. Now, where do we go from here? We have the opportunity to build an even stronger reserve fund and revisit un-met needs.

The Consensus Forecasting Group has projected an additional 401 million dollars, bringing the total surplus of the last two budget cycles to more than 700 million dollars. This is not a budget year, but our effort to run government effectively has created the opportunity to address some of Kentucky's pressing needs in this session. I know each of you will have priorities as well, and I look forward to working with you.

RESTORATION OF PROJECTS

I believe we can now, responsibly move forward on those vetoed projects and I support restoring all of them. Some of the projects have changed slightly and I made some revisions. For example, I support funding the design of the Breathitt Veterinary Center in Western Kentucky as it has significance for homeland security and the integrity of our livestock industry.

RETIREMENT

I also want us to look at some of our other needs with an eye on saving for the future by placing nearly half the total surplus into a combination of our reserve fund and the state's pension programs. Kentucky made a commitment to its public servants and I want to assure all retirees and those who are currently working, that we will keep the promises made to them. Last year, I placed 24 million dollars from the 06 surplus into the state employee pension programs.

Now, after discussion with many of you, I recommend we put no less than 50 million dollars into the retirement accounts for both state workers and teachers. The most effective way to use this money to put it toward the health care retirement benefit plans since they have the fastest growing liability. This funding addresses our short-term need and yesterday, I formed a blue ribbon commission to assess and make recommendations for the long term stability of our retirement system.

BUDGET RESERVE TRUST FUND

With the significant surplus we now have, I recommend an allocation of 150 million dollars to the reserve trust fund bringing the balance to approximately 386 million dollars, the largest in our history. There are three reasons why this deposit is important.

First, it allows us to better prepare for unexpected economic downturns or disasters.
Secondly, it helps keep our strong credit rating.
And thirdly, it allows us to plan for initiatives in the budget session next year including major health care and education proposals.

As Bill Gates has written, "...we are moving at the speed of thought." The people of Kentucky voted for annual sessions because they understood that the needs of our state cannot always wait to be addressed every two years.

The other proposals I make tonight should not wait until the next session. I'd like to thank the thousands of Kentuckians who attended my 14 town hall meetings, voted on the town hall Web site or sent letters to or called my office. When I traveled around the state during the forums, one of the messages I heard was: We need more investment in education.

How should we now build on the 25 percent increase in our current budget for primary and secondary education? The Read to Achieve Program that the First Lady championed is working, but to help us compete nationally and internationally we all recognize that we must do better in math and science.

Let me thank Representative Moberly and Senator Kelly for their work in this area.

I recommend tonight that we invest an additional 7 million dollars in our Math Achievement Fund to make this program available to more than 100 schools across the state.

I also applaud Senator Winters and Senator Kelly for sponsoring SB 1 and 2 which will encourage more into the fields of math and science. We are above the national ACT average in reading. If we raise our math and science scores to the national average, Kentucky will have overall ACT scores above the national average. We are finally that close.

I would like to take this opportunity to recognize the 2007 Kentucky Teacher of the Year. Susanne Burckhardt is a national board-certified teacher at Simpsonville Elementary. She represents the quality teacher that we want to keep in and attract to Kentucky. Susanne, thank you and congratulations.

We have many poor conditioned school buildings in every region of the Commonwealth. Therefore, I am developing a long-term plan to alleviate all of the worst conditioned school facilities, including the challenges endured by high growth districts. I want to thank President Williams and Senator Winters for agreeing in advance to work on this plan. Experts have concluded that there is a direct relationship between the physical condition of a school facility and a student's academic achievement. The plan, at a minimum, will bring all school facilities to a level where the condition of the school building does NOT impede a child's ability to learn. Because of the extensive number of urgent needs schools, the 50 million additional dollars in the current budget helped, but clearly left many schools in need.

You have expressed the desire not to expand the budget in this session and I respect that, but please know that there are areas of urgent need and super high growth that could use additional funding now-- and should the budget be opened I would encourage investment in our school facilities.

TUITION ASSISTANCE

We Kentuckians set a lofty goal of increasing the percentage of Kentuckians with bachelor's degrees to the national average by 2020. Higher education means higher earnings. In thirty years, a person with a professional degree makes 2.3 million dollars more than a high school graduate. And higher education is the only way for our state to remain competitive. To achieve our goal, higher education should be available to every Kentuckian regardless of financial condition. I want to thank the University Presidents for their recent focus on needs-based tuition assistance. Several have begun their own programs. But, the fact remains that tuition has increased 145 percent in the last 10 years. And half the qualified students who apply for our College Assistance Program are turned down for lack of funds.

Statistics show that college enrollment for those turned down is 21 percent lower, than for those who received help. And a small survey at Kentucky State University showed that drop-out rates have been magnified by increasing costs. I also believe there are low income students in middle school and high school that give up on the hope of attending college because of the financial barriers. We can do something about that. We should extend to every student and family in Kentucky a single, overriding message: The Kentucky Covenant. . . a pact that if you work hard, get good grades and take rigorous courses, we will guarantee you an affordable college education here in this state regardless of your financial means.

We will also provide incentives for high achievement in Math and Science.

I am asking you to join me as we work with our universities and community colleges to make this Kentucky Covenant with every student in our state. Working with leading experts in education and financial models we will develop a sustainable program plan for the 08 session. And working with the Universities and combining resources with some of the surplus money that we put in the Reserve Fund I believe we will develop a plan to guarantee every Kentucky student a chance to succeed.

But some students cannot wait until then—so I also propose that 20 million dollars be invested in more needs-based assistance through our College Access Program and the Kentucky Tuition Grant program. These funds will reduce the waiting list and result in more Kentuckians going to college providing financial aid to an additional 11,800 Kentuckians, about 2,400 of whom would not have enrolled otherwise.

Also, there are more than half a million Kentucky adults with some college education but no bachelor's degree. Because there are no needs-based state-funded programs for adult part-time employed students to address this need, I request you invest 5 million dollars to allow Kentucky adults to finish their college education.

Some will say wait until 08 and I understand your concern, but I believe if we are to meet our 2020 goals which this body established we should help all we can when we can.

HEALTH CARE

There are two critical areas that need action now to address our urgent health care needs and bring lower cost, higher quality health care to Kentucky families. We have the second highest rate of cervical cancer deaths in the nation. Most of these deaths are caused by the Human Papilloma Virus. Thanks to a new vaccine developed, in part, by three individuals in our audience, future deaths can be avoided. These three dedicated researchers from our own University of Louisville helped to create and test the world's first cervical cancer vaccine. Please welcome Dr. Ben Jenson, Dr. Dr. Shin Je Ghim and Dr. Stanley Gall.

If you have ever watched a patient die of cervical cancer, and I have, you would do every thing you could to make this vaccine available. I am moving forward with funding this vaccine for our Medicaid patients out of the existing budget. But for low-income individuals or those without insurance, it is not an affordable option. For these Kentuckians, I ask for 4.1 million dollars to make this vaccine available to them. We are not in the business of parenting. So, I propose we properly educate parents about the vaccine and give them the option for their children to receive the vaccine.

E-HEALTH

We are also working to make health care more affordable for Kentucky families through our e-Health efforts. One of the major barriers to achieving this goal is that health care is still dominated by inefficient paper processes.

I recently received a call from Secretary Leavitt of the federal Department of Health and Human Services. He wanted to let me know Kentucky received a 4.9 million dollar federal grant to help our Medicaid program lead our state's e-Health efforts. This federal funding is a boost to our efforts to bring lower cost, higher-quality health care to Kentucky. Now I ask you to allocate an additional 4.1 million dollars of state funding to ensure all Kentucky families and communities can benefit from e-Health.

Also, from the town hall meetings, I heard about the need of our private childcare providers who take care of children with intense care needs. Recognizing our providers' increasing challenges, I propose 7.5 million dollars be allocated to increase payments to ensure our most vulnerable children continue to receive the services they need. This funding, when added to matching federal dollars will bring the total to about 16.4 million dollars. While the majority of this funding will support all providers, I am asking that a portion of these funds be used to address the more intense care needs of some our children.

ECONOMIC INCENTIVES-INITIATIVES

Let me now move to economic incentives that will help our state continue to grow. Tonight I offer several economic development initiatives. The first is a package that will help keep our outstanding corporate citizen, Ford Motor Company prosperous in Kentucky. This package includes 10 million dollars for training and other incentives. Both Senate and House leadership, including Senator Seum and Representative Clark have worked with us to develop this legislation. Now, I ask for your support. Additionally, I will ask for an economic development bond of 10 million dollars to allow us to create even more job opportunities in Kentucky.

ENERGY

Achieving energy independence is one of our major opportunities. Last year, you passed HB 299 which represented the beginning of Kentucky becoming part of the solution to the nation's dependence on foreign oil. That bill was a good start.

Now, it's time to go to the next level. To help our nation achieve energy independence, I propose that we enact legislation that does 4 things:

First, provide tax incentives and credits for state-of -the-art electric and coal-to-liquids generating facilities. This makes us competitive in attracting capital for these large projects.

Second, provide revenue bonds and grant opportunities for new facilities that provide new and clean methods for generating fuel and energy.

Third, extend the clean-coal tax credit for coal-fired generating facilities that use clean-coal technologies, such as IGCC.

Fourth, adopt tax credits for individuals and builders who install Energy Star certified energy saving products. This will encourage Kentuckians to conserve.

Energy independence transcends politics. It is good policy for our nation, our state and our citizens. Representatives Adkins, Gooch and Pullin and Senator Stivers have done great work in this area already. Let me say thank you.

CONSERVATION EASEMENT

Another legacy we can leave our children is one of preserving our landscapes and the natural beauty that we have in Kentucky. Opportunities to participate in outdoor recreation provide numerous benefits to building strong communities including enhanced quality of life, improved public health, new tourism opportunities, and an added amenity for our economic development efforts. No one is more supportive of good development than this administration. We also realize that a growing economy needs new homes and businesses, but over 47,000 acres each year are lost to development. We are getting to the point where only the wealthy can afford access to land for hunting, fishing and wildlife observation. We need more accessible land for all Kentuckians, habitat for wildlife and recreational opportunities. According to Commissioner Gassett, this bill sponsored by Representatives Webb and McKee and Senator Tapp is the most significant piece of legislation for conservation and sportsmen and women in Kentucky in our lifetime. This voluntary program respects personal property rights. There is no cost in this biennium. In 2009, the cost is 3 million dollars. This amount increases each year and will be capped at 10 million dollars per year beginning in 2012. I hope you can join me and the one million Kentuckians who have hunting and fishing licenses, as well as the thousands who enjoy viewing wildlife, by passing this legislation.

HIGH TECH INCENTIVES

We have become the buzz of the high tech industry with the incentives you passed last session. With those tools, Commissioner Clayton has worked to add 101 high tech companies to our growing knowledge based economy in last year alone. We have more interest than we expected and let me ask that you allocate 2 million dollars for this fiscal year and 5 million dollars for 08 for the purpose of attracting more of these companies that are finding Kentucky a new bio-tech player.

EVENTS—WEG

In less than four years, we will bring the world's focus to Kentucky for the 2010 Alltech World Equestrian Games at the Kentucky Horse Park. After our trip to Aachen, Germany to observe the 2006 Games, it became apparent that to host the finest World Equestrian Games ever, we had more work to do. I am asking you to fund a 10,000 seat outdoor spectator arena expandable to 30,000 temporary seating as well as other improvements to the indoor arena you authorized last year.

Also, I am asking for the authorization to spend road fund money to make transportation improvements in order to accommodate the over 500,000 expected visitors. With these additions we can showcase Kentucky to over 200 countries and hundreds of millions of people. This will make the Horse Park the finest equestrian facility in the world for annual legacy events already in the making.

The total cost-- 28 million dollars in bonds and 10 million in road funds.
The economic impact-- about 150 million dollars annually.
The value of this chance to show the World our beautiful Commonwealth-- priceless.

ADD DISTRICTS

Every county judge and local official knows how important Kentucky Area Development Districts are to their community's and county's success. The ADDs budgets have been basically level for several years and yet they continue to add a valuable service to counties and local government. As we ask for more regional planning and cooperation it is important to give them the tools they need. I support increasing their funding in fiscal year 08 by 1.5 million dollars and then looking at additional funding in 09 when we return.

KIA - WOLF CREEK

Recently, because of concerns regarding the integrity of Wolf Creek Dam, the Corps of Engineers announced that the water level in Lake Cumberland will be lowered. Taking this situation seriously, I assembled an interagency working group to plan for and respond to the needs which are likely to arise from this circumstance. My first priority is the safety of the citizens in the region. We are doing our part to assist with the potential impact on tourism, fishing and the general economy in this area. This situation has a potential for far-reaching challenges including water and energy supplies, as well as emergency response plans, in the event of a breach.

So we can be better prepared for situations like this and other urgent needs, that communities across the Commonwealth may have, I am asking for bonding authority for $25 million be placed in the Community Economic Growth Grant fund and $20 million be used to recapitalize Fund B of the Kentucky Infrastructure Authority.

In addition, I am asking you tonight for flexibility in how I may expend surplus funds proactively to assist the citizens and communities in this region to help with the possible challenges arising from the Wolfe Creek Dam situation. This funding will help us respond to citizens and local government not only in this area, but all across the state. I'd like to recognize Senator Jensen and Thayer for support other initiatives to streamline how communities apply for and receive funding.

SOCIAL WORKER BILL

This fall, an unconscionable tragedy occurred in Henderson County. Boni Frederick, one of our state's social service aides, was killed during a visitation between a toddler and his mother. Every day in Kentucky, our social service aides walk into dangerous situations. For too long we have provided too few resources to these public servants who protect our children. My administration will help make the jobs of our social workers safer. Representatives Burch, Wayne, Lee, Senator Denton and many others are proposing ways to fundamentally change our social service system so that we keep families and state employee safe. This is what I promised to Boni's co-workers, and what I call on us all to live up to now. I commit to working with these legislators to fund this initiative.

FLIGHT 5191

This past year we had another tragedy...the crash of Flight 5191. Nothing we do can return the loss or fill the void left by that tragedy. So many of us lost friends and some lost family. I wish to recognize the families of the victims of Flight 5191. I also wish to recognize the Kentuckians who responded to this disaster. Members of the Lexington Fayette Urban County Government and the Blue Grass Airport have met to assemble a Flight 5191 Memorial Commission to oversee the design, selection and construction of a memorial to those who lost their lives in this tragedy. I want to thank Mayor Newberry and his staff and Michael Gobb for their leadership in this respect. I encourage you to provide the financial support for a fitting memorial to these victims and their families.

DRUG INITIATIVE

Let me turn to a deep concern that plagues not only Kentucky, but the nation. We all have witnessed the destructive power of drugs to ravage lives and families, to weaken our communities and to overload our criminal justice system. It is an epidemic. We have taken some important steps. To fight not only drugs, but the chronic homelessness it causes we have established ten recovery centers across the state with 1,000 beds of hope. We have strengthened our rehabilitation efforts in our prisons and have increased those beds from 400 to 1,400. With the Methamphetamine legislation you passed we are making progress. There are 57 percent less reported Meth labs and an estimated 69 percent reduction in exposure of children to methamphetamine.

It is now time to take the next step in our fight to tackle this problem. Joining Senators Stivers and Kelly along with General Stumbo we announced legislation that would help us take one of the most significant step this state has ever taken to stop the scourge of drugs.

It is an approach to attack the problem at every point:

To stop illegal transportation of drugs and the seizure of funds of Drug Traffickers, electronic monitoring, tougher Internet pharmacy enforcement and rehabilitation for Kentuckians struggling with substance abuse. I hope you will support us in this effort. The first role of government is to protect it citizens and especially our children. One other thing I ask you to do this session is to make the KLEFPF fund whole by making all certified peace officers eligible.

JAILS

Together we must begin to focus our attention on an issue critical to the financial stability of Counties all across this Commonwealth, the cost of operating county jails. This is a problem that has developed over years and now is becoming more significant as it affects the budgets of many counties. We have increased the per diem recently but a comprehensive long term solution has not been undertaken.

Indeed the time is now for the development of a bi-partisan short time solution to address immediate needs, followed by a comprehensive re-examination of our corrections program across the Commonwealth. I hope during this session that action to relieve the short term concerns as well as plan for a long term solution is undertaken. I look forward to working with you.

In 2005, I established a panel to study the Kentucky Commission on Human Rights. The results revealed the commission's staffing level is inadequate to decrease the number of discrimination cases it receives. Tonight, I request the commission be given $300,000 in fiscal year 08 to meet its mission of encouraging fair treatment and discouraging discrimination against all racial and ethnic groups in Kentucky.

VETERANS INITIATIVE

In my last State of the Commonwealth address, I closed with a salute to our soldiers and veterans. In the past year more Kentuckians have sacrificed personal freedoms, physical well-being and sometimes their lives to stand up to the forces of terrorism. Since last year, over twenty brave Kentuckians gave us their all, dying in the fight to oppose those who would threaten our freedom.

This year I propose a comprehensive set of initiatives to begin to pay back those who serve and have served so selflessly for you and me. I am establishing a veterans advocate and benefits specialist in the Personnel Cabinet to assist Kentucky veterans through the application and interview process for state jobs. I announced my support for bonding the full 6 million dollar expansion of the Western Kentucky Veterans Center so that we can move forward on constructing a place for 40 more beds. Through federal grant funds, we will be reimbursed for this cost in the future.

I also will ask the Secretary of the Finance and Administration Cabinet to write a letter of gracious acceptance to allow us to except land from Fort Knox for an additional state veterans nursing home and to extend our state veterans cemetery. Last session you authorized a Veterans' Personal Loan Program. I am now asking for 2.5 million dollars to fund this program in the current budget.

For veterans unable to care for their own affairs by the federal VA, I have proposed a Conservator Program to help veterans manage their financial and personal affairs. We also are working with Representative Wilkey who has introduced a Wounded and Disabled Veterans Bill that will provide lifetime support and case management to those scarred from the battlefield.

Tonight, I wish to introduce you to Herman Horn. He is a survivor of Pearl Harbor and represents the thousands of veterans who will benefit if we pass this legislation. On the morning of December 7, 1941, Herman woke up and the Japanese were bombing and strafing everything he could see. Mr. Horn's unit escaped the initial attack and took action to stage a counter-attack. He is now the president of the Kentucky Pearl Harbor Survivors Association, and for many years has shared his experience with hundreds of students. Herman, thank your for coming and for sharing your story with us.

Our soldiers with uncommon valor protect our freedom. Their families make financial sacrifices the deployments, the loneliness, the anxiety. We can afford easily to ease some of that burden by exempting the pay of active, National Guard and reserve soldiers from the state income tax. This legislation is sponsored by Representatives Siler, Ballard, Dossett and Senator Tori. The cost: 8.6 million dollars this budget cycle, then about 16.5 million dollars annually there after.

The benefits are numerous. Many soldiers change their residency to other states because of our income tax. We can attract many of the over 8 out of ten Fort Campbell soldiers who make Tennessee their home instead of Kentucky, because of the income tax issue. I believe that, in and of its self may make up most of the cost of the initiative. I ask for your support to do this to honor those who fight for our freedom and security.

CLOSING

In closing let me say that here in Frankfort the well-heeled voices are easy to hear, hard to ignore and inviting to heed. But if we listen carefully, we will hear the soft and timid voices of the poor, the fatherless and the downtrodden that without our special efforts will go unnoticed. It is often in the still, small voice that truth resounds. Let us listen more carefully to do justice to those that our creator called the least of these my brethren as we have done these three years.

Through cautious management, honest debate and by putting aside our political leanings, we have together turned Kentucky around. Thousands of people are now hearing about our Unbridled Spirit, they like what they hear. Over the next few years we will have nearly a million visitors attending world-class events and the Lincoln bicentennial celebration. Because of the work we have done together, they will like what they see.

Thank you and God bless.

The President of the Senate resumed the Chair.

Representative Adkins moved to dissolve the Joint Session. Agreed.

The Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to **HB 31**, by Representative Montell:

HB 31, On page 1, line 2, by placing brackets around and striking through the words "not less than".

On page 1, line 4, delete the phrase "***if the employee's annual salary is less than sixty thousand dollars ($60,000).***".

One page 1, lines 5 through 7, delete the sentence "***An annual increment equaling the federal Social Security cost-of-living adjustment shall be granted to each employee on his or her anniversary date if the employee's annual salary is sixty thousand dollars ($60,000) or more***".

On page 1, lines 17 and 18, remove the brackets and strikethrough from the sentence "The annual increment shall be uniform for all employees."

On page 1, line 25, delete the phrase "***calculated based on the***".

On page 2, lines 1 through 2, delete the phrase "***proportions for the annual increment set forth in subsection (1) of this section***".

On page 2, line 2, remove the brackets and strikethrough from the phrase "uniform for all state employees".

On page 3, lines 20 through 21, remove the brackets and strikethrough from the sentence "Any such reduction of the annual increment shall be uniform for all employees.".

Motions Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representatives Hall, Weston, Stein, Jenkins, Miller, Keene, Palumbo, Marzian, Horlander, Hoffman, and Meeks

HB 11, Representative Wuchner

HB 14, Representative Henley

HB 17, Representatives Glenn, Henderson, Stein, Riner, Nelson, Hall, Crenshaw, Wilkey, Rollins, Graham, Meeks, Burch, Jenkins, Miller, Firkins, Owens, Weston, and Nesler

HB 21, Representative Greer

HB 23, Representative Rand

HB 45, Representative Mobley

HB 47, Representative DeCesare

HB 60, Representative Mobley

HB 64, Representative Draud

HB 66, Representatives Mobley, Richards, Clark, and Wuchner

HB 69, Representatives Adkins and Gooch

HB 71, Representative Siler

HB 75, Representatives Butler and Clark

HB 80, Representatives Koenig and Riggs

HB 92, Representative Clark

HB 103, Representative Marzian

HB 108, Representative Rollins

HB 124, Representative Clark

HB 156, Representative Clark

HB 187, Representatives Greer, Combs, Hall, Napier, Mobley, Ford, Collins, and Wuchner

HB 195, Representative Wuchner

HB 211, Representatives Rader and Wuchner

HB 230, Representatives Miller, Palumbo, McKee, Ballard, Nelson, Keene, and Draud

HB 238, Representative Osborne

HB 251, Representative S. Lee

HB 298, Representative Comer

HB 305, Representatives Firkins, Adkins, Horlander, Keene, Riner, Yonts, Wilkey, Sims, Hoffman, Collins, Combs, and Miller

HB 311, Representative Simpson

HR 64, Representative Napier

The following members filed requests to have their names withdrawn as co-sponsors of Bills:

HB 161, Representative Hall

HB 167, Representative Miller

Announcements

Majority Caucus, upon adjournment, Room 131

Committee on Licensing and Occupations, canceled, Wednesday, February 7, 2007

Committee on Agriculture and Small Business, 8:00 a.m., Wednesday, February 7, 2007

Committee on Appropriations and Revenue, canceled, Wednesday, February 7, 2007

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Wednesday, February 7, 2007.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 7, 2007, was adopted by voice vote.

WEDNESDAY, FEBRUARY 7, 2007

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Jack Brewer, First United Methodist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of February 6, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Representative Damron moved to grant floor privileges to the student body Presidents of The University of Kentucky, Eastern Kentucky University, Morehead State University, The University of Louisville, Kentucky State University, Murray State University, Western Kentucky University, and the student representatives on the Council for Post Secondary Education. Agreed.

Representative McKee moved that the rules be suspended to act on a Resolution. Agreed.

Representative McKee moved the adoption of the following **HR 62**:

HR 62, A RESOLUTION honoring Kentucky's farmers for providing us with the most affordable food in the world, and recognizing February 6, 2007, as Food Checkout Day.

WHEREAS, average American spends only ten percent of their disposable income on food, the lowest rate in the world; and

WHEREAS, when applied to calendar days, the average American earns enough income to pay for their annual food supply in just 37 days, which will commemorate on February 6, 2007; and

WHEREAS, by comparison, the average American works until April 11 of each year just to pay for their annual taxes; and

WHEREAS, because our farmers provide us with low-cost food, we have more money to spend on other things, which boosts our whole economy and our quality of life; and

WHEREAS, because of these things, we should honor our farmers for providing us with the most affordable food in the world;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Kentucky's farmers shall be honored for providing us with the most affordable food in the world, and February 6, 2007, shall be recognized as Food Checkout Day.

There being no objection, **HR 62** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **HR 62** the vote was: **Yeas 91**. (See February 7, 2007, roll call to show co-sponsors on **HR 62**-Appendix.)

Introduction of Bills and Resolutions

Representative Henley moved that **HB 232** be withdrawn. Agreed.

HB 326, by Representatives Moberly, Adkins, L. Belcher, Richards, Clark, Rasche, Hoffman, Marzian, Pasley, J. Lee, and Wilkey: AN ACT relating to the allocation of excess Support Education Excellence in Kentucky (SEEK) funds, making an appropriation therefor, and declaring an emergency.

HB 327, by Representative Moberly: AN ACT amending 2006 Kentucky Acts Chapter 252, relating to appropriations for the operations, maintenance, support, and functioning of the executive branch of government of the Commonwealth of Kentucky, and declaring an emergency.

HB 328, by Representative DeCesare: AN ACT relating to contracts.

HB 329, by Representative DeCesare: AN ACT relating to emergency vehicles.

HB 330, by Representative Baugh: AN ACT relating to sales and use tax.

HB 331, by Representative Farmer: AN ACT relating to retirement.

HB 332, by Representatives Damron, Moberly, Wilkey, Adkins, Clark, Hoffman, Stein, and Richards: AN ACT relating to postsecondary institution debt.

HB 333, by Representative Simpson: AN ACT relating to plastic containers.

HB 334, by Representative Brinkman: AN ACT relating to business entities.

HB 335, by Representative Brinkman: AN ACT relating to the taxation of aircraft.

HB 336, by Representative Kerr: AN ACT relating to historic motor vehicles.

HB 337, by Representatives Stacy, Marzian, and Jenkins: AN ACT relating to Medicaid reimbursement for smoking cessation treatment.

HB 338, by Representative Montell: AN ACT relating to public morals.

HB 339, by Representatives Siler, Ballard, DeWeese, and Adams: AN ACT relating to the taxation of military pay.

HB 340, by Representative Simpson: AN ACT relating to alcoholic beverage licenses.

HB 341, by Representative Simpson: AN ACT relating to the sale of alcoholic beverages on election days.

HB 342, by Representatives Siler and Ballard: AN ACT relating to the misuse of military status.

HB 343, by Representatives Moore and J. Lee: AN ACT relating to crimes and punishments.

HB 344, by Representatives Marzian, Burch, Stein, and Jenkins: AN ACT relating to health insurance coverage for contraceptive services.

HB 345, by Representatives Watkins, Burch, and Marzian: AN ACT relating to cervical cancer immunizations.

HB 346, by Representatives Brinkman and Westrom: AN ACT relating to financial literacy.

HB 347, by Representatives Keene, Santoro, Kerr, Fischer, Koenig, Draud, Wuchner, McKee, and Adams: AN ACT relating to tourism development.

HB 348, by Representatives Harmon and Crenshaw: AN ACT relating to marriage.

HB 349, by Representatives Draud, Wuchner, Kerr, Koenig, and Thompson: AN ACT relating to community redevelopment.

HJR 77, by Representative DeCesare: A JOINT RESOLUTION honoring the Milton Friedman and designating January 29, 2008, as Milton Friedman Day in the Commonwealth of Kentucky.

HR 78, by Representatives McKee, Sims, Adams, Hoffman, Henderson, Wilkey, Greer, Nesler, Stacy, Adkins, Butler, Rader, Bell, Dedman, Pasley, Comer, Ford, Stewart, Baugh, Vincent, Gooch, Tilley, Montell, Embry, Osborne, and Rand: A RESOLUTION requesting reauthorization of the Tobacco Task Force.

HCR 79, by Representative Sims: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study alternative methods of establishing a system of universal health insurance coverage that provides access to affordable, high-quality health care for all residents of the Commonwealth of Kentucky.

HR 80, by Representative Henley: A RESOLUTION requesting that Kentuckians observe "Spay Day USA" 2007 by having their dogs and cats spayed or neutered, and by contributing to charitable organizations that provide spay and neuter services.

HR 81, by Representative Jenkins: A RESOLUTION endorsing a National Health Insurance Act.

HR 82, by Representatives Bell and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist James W. Gardner.

HR 83, by Representatives Napier and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First Class Theodore Mitchell ("Coty" or "Cotton") West.

HJR 84, by Representatives Henderson, Adkins, Stacy, Clark, Edmonds, Damron, A. Smith, and Couch: A JOINT RESOLUTION requiring that a statute of Bert T. Combs be erected in Powell County, on Kentucky Route 213, on the surplus land across from the U.S. Post Office in the community of Stanton.

HR 85, by Representatives Vincent, Adkins, Pullin, and Webb: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First class Scott A. Messer.

HR 86, by Representative Damron: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Hugh C. "Buddy" Adams Jr.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 231, 270, 304**

Appropriations and Revenue: **HB 244, 258, 262, 265, 276, 291, 316**

Banking and Insurance: **HB 250, 255, HCR 71**

Education: **HB 221, 222, 229, 230, 235, 285, 306, 311, 315, HCR 46**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 224**

Health and Welfare: **HB 233, 234, 252, 256, HCR 67**

Judiciary: **HB 236, 302, 322**

Labor and Industry: **HB 296, 303, 305**

Licensing and Occupations: **HB 278, 310**

Local Government: **HB 240, 247, 273, 277, 281, 317**

Natural Resources and Environment: **HR 73**

Seniors, Military Affairs and Public Safety: **HB 225, 280, 287, HR 61**

State Government: **HB 223, 227, 228, 283, 293, 295**

Tourism Development and Energy: **HB 319**

Transportation: **HB 301, 323, HJR 50, 52, 54, 66, 72, 74**

House Floor: **HR 42, 43, 44, 45, 48, 49, 51, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 68, 69**

Report of Committees

The Committee on Committees has met and reports the following committee changes:

Appoint the following member to:

Seniors, Military Affairs and Public Safety

Rep. Tim Moore

Remove the following member from:

State Government

Rep. David Floyd

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 32, 50, 145, HCR 19, 25, 29, 31, 32, HJR 11**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 70**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 120,** with Committee Substitute and Committee Amendment attached thereto, **HB 192, HB 202, HJR 14,** with Committee Substitute and Committee Amendment attached thereto, **HCR 28, HCR 30,** and **HCR 33** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 120, AN ACT relating to farmers markets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act. For the purposes of KRS 217.136 and 217.137, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;

(3) "Cabinet" means the Cabinet for Health and Family Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen,

powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, home-based processors, or home-based microprocessors;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a

requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858, and health care professionals who are residents of and actively practicing in a state other than Kentucky and who are licensed and have prescriptive authority under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and

packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment;

(51) "Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for home use and not for commercial use, and shall be operated in the kitchen within the residence;

(52) "Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;

(53) "Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;

(54) "Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

(55) "Acid food" means foods that have a natural pH of 4.6 or below;

(56) "Home-based processor" means a farmer who, in the farmer's home, produces or processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies;

(57) "Home-based microprocessor" means a farmer who, in the farmer's home or certified or permitted kitchen, produces or processes acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a net income of less than thirty-five thousand dollars ($35,000) annually from the sale of the product;

(58) "Certified" means any person or home-based microprocessor who:

  (a) Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or

  (b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;[~~and~~]

(59) "Farmer" means a person who is a resident of Kentucky and owns or rents agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to 217.139, "farmer" also means any person who is a resident of Kentucky and has grown the primary horticultural and agronomic ingredients used in the home-based processed products which they have produced***; and***

(60) "Farmers market temporary food service establishment" means any temporary food service establishment operated by a farmer who is a member of the market which operates within the confines of a farmers market registered with the Kentucky Department of Agriculture for the direct-to-consumer marketing of Kentucky grown farm products from approved sources or samples of such products for a period of time not to exceed one (1) day per week for any consecutive six (6) months period in a calendar year.

Section 2. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of

permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Health and Family Services.

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection ***(11)***[~~(6)~~] of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) ***Except as otherwise provided in subsection (11) of this section, each application for a farmers market temporary food service establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be used to carry out duties related to farmers market temporary food service establishments including but not limited to inspections and the issuance of permits.***

(6) An applicant for a permit to operate a farmers market temporary food service establishment must provide documentation of successful completion of a food safety training program offered by either the state, a local health department, or other entity approved by the cabinet to conduct food safety training. Each certification of food safety training shall expire after a period of twenty-four (24) months from the date of issuance. Permits issued shall be posted in a conspicuous place in the establishment, and a person who has completed the food safety training for farmers market temporary food service establishments shall be present at all times during the operation of the establishment.

(7) Upon expiration of a temporary food service establishment permit, any subsequent permits shall not be issued to the same operator to operate at the same location until a period of thirty (30) days has elapsed.

(8) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(9) Permits shall not be issued to operate a temporary food service establishment and a farmers market temporary food service establishment simultaneously at the same location and by the same operator.

(10) In all instances of permit issuance for either a temporary food service establishment permit or a farmers market temporary food service establishment permit, any subsequent permits shall not be issued until a period of thirty (30) days has elapsed.

(11)[~~(6)~~] Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for Health and Family Services or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. For this subsection, the term "charitable food kitchens" means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.

(12)[~~(7)~~] Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection ***(11)***[~~(6)~~] of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.

(13)[~~(8)~~] Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

The Committee Substitute to **HB 120** is as follows:

HB 120, AN ACT relating to farmers markets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act. For the purposes of KRS 217.136 and 217.137, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;

(3) "Cabinet" means the Cabinet for Health and Family Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated,

whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, home-based processors, or home-based microprocessors;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858, and health care professionals who are residents of and actively practicing in a state other than Kentucky and who are licensed and have prescriptive authority under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment;

(51) "Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for home use and not for commercial use, and shall be operated in the kitchen within the residence;

(52) "Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;

(53) "Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;

(54) "Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

(55) "Acid food" means foods that have a natural pH of 4.6 or below;

(56) "Home-based processor" means a farmer who, in the farmer's home, produces or processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies;

(57) "Home-based microprocessor" means a farmer who, in the farmer's home or certified or permitted kitchen, produces or processes acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a net income of less than thirty-five thousand dollars ($35,000) annually from the sale of the product;

(58) "Certified" means any person or home-based microprocessor who:

(a) Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or

(b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;[~~ and~~]

(59) "Farmer" means a person who is a resident of Kentucky and owns or rents agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to 217.139, "farmer" also means any person who is a resident of Kentucky and has grown the primary horticultural and agronomic ingredients used in the home-based processed products which they have produced***; and***

(60) "Farmers market temporary food service establishment" means any temporary food service establishment operated by a farmer who is a member of the market which operates within the confines of a farmers market registered with the Kentucky Department of Agriculture for the direct-to-consumer marketing of Kentucky grown farm products from approved sources for a period of time not to exceed two (2) days per week for any consecutive six (6) months period in a calendar year.

Section 2. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Health and Family Services.

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to

operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection *(11)*[~~(6)~~] of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) ***Except as otherwise provided in subsection (11) of this section, each application for a farmers market temporary food service establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be used to carry out duties related to farmers market temporary food service establishments including but not limited to inspections and the issuance of permits.***

(6) An applicant for a permit to operate a farmers market temporary food service establishment must provide documentation of successful completion of a food safety training program offered by either the state, a local health department, or other entity approved by the cabinet to conduct food safety training. Each certification of food safety training shall expire after a period of twenty-four (24) months from the date of issuance. Permits issued shall be posted in a conspicuous place in the establishment, and a person who has completed the food safety training for farmers market temporary food service establishments shall be present at all times during the operation of the establishment.

(7) Upon expiration of a temporary food service establishment permit, any subsequent permits shall not be issued to the same operator to operate at the same location until a period of thirty (30) days has elapsed.

(8) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(9) Permits shall not be issued to operate a temporary food service establishment and a farmers market temporary food service establishment simultaneously at the same location and by the same operator.

(10) In all instances of permit issuance for either a temporary food service establishment permit or a farmers market temporary food service establishment permit, any subsequent permits shall not be issued until a period of thirty (30) days has elapsed.

(11)[~~(6)~~] Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for Health and Family Services or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. For this subsection, the term "charitable food kitchens" means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.

(12)[~~(7)~~] Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection *(11)*[~~(6)~~] of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.

(13)[~~(8)~~] Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 3. Whereas it is important to assist farm families and communities in the pursuit of their livelihood, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 120** is as follows:

HB 120, Amend the title to read as follows: "AN ACT relating to farmers markets and declaring an emergency."

HB 192, AN ACT relating to cotton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act, unless the context requires otherwise:

(1) "Association" means any commission, council, board, or other body;

(2) "Boll weevil" means Anthonomus grandis Boheman in any stage of development;

(3) "Commissioner" means the Commissioner of Agriculture or the Commissioner's designee;

(4) "Cotton" means any cotton plant or cotton plant product upon which the boll weevil is dependent for completion of any portion of its life cycle;

(5) "Cotton grower" means any person who is engaged in and has an economic risk in the business of producing, or causing to be produced, cotton for market;

(6) "Host" means any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle;

(7) "Infested" means actually infested with a boll weevil, or so exposed to infestation that it would be reasonable to believe that an infestation exists; and

(8) "Regulated article" means any article of any character carrying or capable of carrying the boll weevil, including but not limited to cotton plants, seed cotton, other hosts, gin trash, and mechanical cotton pickers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner shall carry out programs to destroy and eliminate boll weevils in this state.

(2) The Commissioner may cooperate with any agency of the federal government, any state, any other agency in this state, or any person or group of persons engaged in growing, processing, marketing, or handling cotton in order to carry out the purposes of Sections 1 to 16 of this Act, and may enter into written agreements to carry out those purposes. The agreements may provide for cost-sharing and for division of duties and responsibilities under Sections 1 to 16 of this Act, and may include other provisions generally to carry out the purposes of Sections 1 to 16 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner may enter cotton fields and other premises in order to carry out certain activities, including but not limited to treatment with pesticides and monitoring as may be necessary to carry out Sections 1 to 16 of this Act.

(2) The Commissioner may inspect any fields or premises in this state and any property located on the premises for the purpose of determining whether the property is infested. The inspection and other activities may be conducted at any reasonable hours between sunrise and sunset.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every person growing cotton in this state shall furnish to the Commissioner, on forms supplied by the Commissioner, information that the Commissioner requires regarding the size and location of all commercial cotton fields and of noncommercial patches of cotton grown as ornamentals or for other purposes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall promulgate administrative regulations to carry out Sections 1 to 16 of this Act, and may establish monetary penalties for violating Sections 1 to 16 of this Act or for violating administrative regulations promulgated under Sections 1 to 16 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner may:

(a) Designate one (1) or more areas of this state as elimination zones where boll weevil eradication programs will be undertaken;

(b) Designate areas within the elimination zone where commercial and noncommercial cotton is prohibited from being planted;

(c) Require all commercial cotton growers within an elimination zone to participate in a boll weevil eradication program; or

(d) Destroy cotton being grown in prohibited areas of an elimination zone, and assess the grower for the costs incurred for the destruction.

(2) Notice of the designation of an elimination zone shall be given by publication for one (1) day each week for three (3) successive weeks in a newspaper having general circulation in the affected area.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner may treat with pesticides or destroy volunteer or other noncommercial cotton, and may establish procedures for the purchase and destruction of commercial cotton in elimination zones as designated under Section 6 of this Act.

(2) Except as provided in subsection (3) of this section, no payment shall be made to the owner or lessee for the destruction or injury of any cotton which was planted in an elimination zone if the cotton was planted in violation of any provision of Sections 1 to 16 of this Act or any administrative regulations promulgated under Sections 1 to 16 of this Act.

(3) If cotton that was planted in an elimination zone prior to the notification requirement in Section 6 of this Act is destroyed or injured, the Commissioner shall pay for losses incurred.

(4) The Commissioner may restrict entry by persons, and may restrict the location of honeybee colonies, in any areas of an elimination zone which has been or is to be treated with pesticides.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Any person who, except in compliance with administrative regulations promulgated by the Commissioner, moves any regulated article into this state from any other state which the Commissioner has determined to be infested, shall be guilty of a Class A misdemeanor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No association meeting or activity undertaken to carry out Sections 1 to 16 of this Act and intended to benefit all cotton growers, handlers, or processors shall be deemed or considered illegal or in restraint of trade.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Any existing association which is fairly representative of the cotton growers of Kentucky may at any time after the effective date of Sections 1 to 16 of this Act make application to the State Board of Agriculture on forms provided by the board for certification and approval for the purpose of conducting a referendum among cotton growers upon the question of levying an assessment upon the cotton growers to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs. The application forms shall include but not be limited to the following:

(a) Applicant's name and address;

(b) Date;

(c) Program to be undertaken for growers;

(d) Brief statement of how the program is to be implemented;

(e) Referendum to be conducted on a statewide or areawide basis;

(f) Proposed effective date of the program;

(g) Geographic area, by counties, of growers to be affected by the program; and

(h) Signature of the applicant.

(2) The Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt of the application.

SECTION 11. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Upon being certified by the Commissioner, the association shall be fully authorized and empowered to hold and conduct on the part of the cotton growers a referendum on the question of whether or not an assessment shall be levied upon the growers to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs.

(2) Any assessment levied upon cotton growers shall be based upon the number of acres of cotton planted, and shall not exceed twenty dollars ($20) per acre.

SECTION 12. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Any referendum conducted under Sections 1 to 16 of this Act may be held either on an areawide or statewide basis, as determined by the duly certified association before the referendum is called. The referendum may be participated in by all cotton growers. The Commissioner shall determine any questions of eligibility to vote. In the referendum, individuals eligible for participation shall vote upon the question of whether or not there shall be levied an assessment to offset, in whole or in part, the cost of boll weevil or other cotton pest suppression or eradication programs.

(2) Passage of the referendum shall require a two-thirds (2/3) majority of those eligible cotton growers voting.

(3) Upon passage of the referendum, the Commissioner shall determine the amount of the assessment, not to exceed twenty dollars ($20) per acre, and the period of time for which it is levied.

SECTION 13. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The manner, conduct, and management of any referendum held under Sections 1 to 16 of this Act shall be under the supervision and direction of the Commissioner, and all expenses in connection with the referendum shall be borne by the association conducting the referendum.

SECTION 14. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) With respect to any referendum conducted under Sections 1 to 16 of this Act, the Commissioner shall publicly announce through the medium of the public press at least thirty (30) days before the date determined for the referendum, the following information:

- ***(a) The rules and regulations with respect to the holding of the referendum;***
- ***(b) The area within which the referendum will be conducted;***
- ***(c) The date, hours, and polling places for voting in the referendum;***
- ***(d) The effective date of the assessment, if adopted;***
- ***(e) The basis of the assessment proposed to be collected;***
- ***(f) The means by which the assessment shall be collected if authorized by the growers;***
- ***(g) The general purposes to which any amount shall be applied; and***
- ***(h) How the proceeds from the assessment shall be administered.***

(2) Direct written notice shall also be given to each county or area agricultural extension agent in any county covered by the referendum.

SECTION 15. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall prepare and distribute in advance of the referendum the question to be presented to the voters and shall arrange for the necessary poll holders for conducting the referendum. Within ten (10) days following the referendum, the Commissioner shall canvass and publicly declare the result of the referendum.

SECTION 16. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) If two-thirds (2/3) of the eligible growers who vote in the referendum, vote in favor of levying and collecting the assessment proposed in the referendum, then the assessment shall be collected in the manner determined and announced by the Commissioner.

(2) If the referendum fails to receive the required number of affirmative votes, the association may, with the consent of the Commissioner, call other referendums.

(3) After the passage of any referendum, upon the petition of the majority of eligible voters, eligible voters may, by subsequent referendums, vote on whether to continue their assessments. All of the requirements for an initial referendum shall be met in subsequent referendums.

HB 202, AN ACT relating to agricultural districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.850 is amended to read as follows:

(1) This section shall be known as "the Agricultural District and Conservation Act."

(2) It is the policy of the state to conserve, protect, and to encourage development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the policy of this state to conserve and protect the agricultural land base as a valuable natural resource which is both fragile and finite. The pressure imposed by urban expansion, transportation systems, water impoundments, surface mining of mineral resources, utility rights-of-way, and industrial development has continually reduced the land resource base necessary to sufficiently produce food and fiber for our future needs. It is the purpose of this section to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state's economy and as an important resource.

(3) ***As used in this section, for the sole purpose of forming an agricultural district:***

- ***(a) "Agricultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area used for agriculture;***
- ***(b) "Agriculture" means the business of raising or producing:***
  - ***1. Crops, the products of which are used for food, feed, fiber, energy, or pharmaceuticals;***
  - ***2. Horticulture products;***
  - ***3. Tobacco;***
  - ***4. Aquaculture products;***
  - ***5. Livestock, poultry, and ratite birds and eggs;***
  - ***6. Milk and milk products;***
  - ***7. Eggs and egg products;***
  - ***8. Bees and bee products; and***
  - ***9. Timber;***
- ***(c) "Horticulture" means the business of raising fruits, nuts, vegetables, flowers, ornamental plants, shrubs, trees, herbs, and the starts or transplants needed to produce these items;***
- ***(d) "Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions;***

(e) "Livestock" means cattle, sheep, swine, goats, horses, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, or equine species; and deer and elk, whose regulatory requirements are under KRS Chapters 150 and 246, that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products; and

(f) "Poultry" means chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit.

(4) The local governing administrative body for an agricultural district shall be the conservation district board of supervisors. The Soil and Water Conservation Commission shall be responsible for statewide administration of the agricultural district program and shall have sole authority to certify or deny agricultural district petitions. The commission may apply for assistance and funds from the Federal Farmland Protection Act of 1981 (Pub. L. 97-377) which may be available for the development of the agricultural district program and may accept easements as provided in KRS 65.410 to 65.480.

(5)[~~(4)~~] Any owner or owners of land may submit a petition to the local conservation district board of supervisors requesting the creation of an agricultural district within the county. The petition shall include a description of the proposed area, description of each land parcel, location of the proposed boundaries, petitioners' names and addresses, adjacent landowners' names and addresses, and other pertinent information as required in the petition application. The boundary of an agricultural district shall be contiguous. No land shall be included in an agricultural district without the consent of the owner.

(6)[~~(5)~~] Upon receipt of a petition, the local conservation district board of supervisors shall notify the fiscal court and any local or regional planning or zoning body, if any, by sending a copy of the petition and accompanying materials to that body.

(7)[~~(6)~~] The following factors shall be considered by the local conservation district board of supervisors and the Soil and Water Conservation Commission when considering the formation of any agricultural district:

(a) The capability of the land to support agricultural production, as indicated by: soil, climate, topography*,* or other natural factors;

(b) The viability of active farmlands, as indicated by: markets for farm products, extent and nature of farm improvements, present status of farming, anticipated trends in agricultural economic conditions*,* and technology;

(c) That the proposed agricultural district meets the minimum size limit of two hundred fifty (250) contiguous acres, unless the local conservation district board and the Soil and Water Conservation Commission allow fewer than two hundred fifty (250) contiguous acres if the proposed area meets a minimum annual production performance established by the district board and approved by the commission;

(d) County development patterns and needs and the location of the district in relation to any urban development boundaries within the county*, including the local Comprehensive Plan and the 401 Facilities Plan, if one exists*;

(e) Any matter which may be relevant to evaluate the petition; and

(f) Whether an application is from more than one (1) farm owner, in which case a preference shall be given to the application.

(8)[~~(7)~~] The local soil and water conservation district board of supervisors shall review the petition application and submit a recommendation to the Soil and Water Commission within sixty (60) days of receipt. The local conservation district recommendation shall be submitted to the commission in the form of approval, approval with modifications, or denial of the petition accompanied by justification for *the*[~~such a~~] denial.

(9)[~~(8)~~] The Soil and Water Conservation Commission shall review the recommendation of the district board of supervisors and certify or deny the agricultural district's petition within sixty (60) days of receipt.

(10)[~~(9)~~] Upon the approval of a petition by the Soil and Water Conservation Commission, the commission shall notify the area development district in which the agricultural district will lie, the local county clerk, and the secretary of the Governor's Cabinet.

(11)[~~(10)~~] Land within the boundary of an agricultural district shall not be annexed.

(12)[~~(11)~~] The owners of land within the boundary of an agricultural district shall be exempt under KRS 74.177 from any assessment authorized for the extension of water service lines until the land is removed from the district and developed for nonagricultural use. Any member, or any successor heir of the member, of an agricultural district may withdraw from the district upon notifying the local conservation district board of supervisors in writing.

(13)[~~(12)~~] It shall be the policy of all state agencies to support the formation of agricultural districts as a means of preserving Kentucky's farmlands and to mitigate the impact of their present and future plans and programs upon the continued agricultural use of land within an agricultural district.

(14)[~~(13)~~] Agricultural districts shall be comprised only of agricultural land as defined in ***this section. The agricultural land must have been used for agriculture for at least one (1) year before becoming eligible for consideration to be in an agricultural district***[~~KRS 132.010~~].

(15) (a)[~~(14)~~] An agricultural district ***of ten (10) acres or more*** shall be established for five (5) years with a review to be made by the local soil and water conservation district board of supervisors at the end of the five-year period and

every five (5) years thereafter. Each owner of land shall agree to remain in the district for a five (5) year period, which is renewable at the end of the five (5) years.[~~However,~~] The board shall make a review any time upon the written request of a local government which demonstrates that the review is necessary in order to consider development needs of the local government. The board shall consider whether the continued existence of the district is justified, any adjustments which may be necessary due to urban or county development, and other factors the board finds relevant. The board shall revise the district as necessary based on the review and subject to approval of the State Soil and Water Conservation Commission. Before the state commission takes final action, all interested parties shall be given the opportunity to request the state commission to amend or overturn the local board's decision.

(b) An agricultural district of less than ten (10) acres shall be established for five (5) years with a review to be made annually by the local soil and water conservation district board of supervisors. Each owner of land shall agree to remain in the district for a five (5) year period, which is renewable at the end of the five (5) years. The board shall make a review any time upon the written request of a local government which demonstrates that the review is necessary in order to consider development needs of the local government. The board shall consider whether the continued existence of the district is justified, any adjustments which may be necessary due to urban or county development, and other factors the board finds relevant. The board shall revise the district as necessary based on the review and subject to approval of the State Soil and Water Conservation Commission. Before the state commission takes final action, all interested parties shall be given the opportunity to request the state commission to amend or overturn the local board's decision.

(c) An agricultural district of less than ten (10) acres shall comply with any conservation plans required by the State Soil and Water Conservation Commission.

(16)[~~(15)~~] The withdrawal of a member from a district reducing the remaining acreage of agricultural district land to less than two hundred fifty (250) acres or resulting in the remaining land being noncontiguous shall not cause the decertification of the district.

(17)[~~(16)~~] Any member of an agricultural district who has received a summons of condemnation proceedings being instituted concerning the member's land located in the district may request the local soil and water conservation district board of supervisors to hold a public hearing on the proposed taking of land.[~~However~~] A hearing under this section shall not be held if the petitioner in the condemnation proceeding is a utility as defined in KRS 278.010(3) and obtained a certificate of convenience and necessity as required by KRS 278.020(1).

(18)[~~(17) (a)~~] The board shall notify the local property valuation administrator of the farms which belong to an agricultural district, and ***shall notify the local property valuation administrator if***[~~whenever~~] a farm is ***released or*** withdrawn from a district. The board shall also inform all members of a district of the right to have their land assessed by the local property valuation administrator at the land's agricultural use value and shall offer advice and assistance on obtaining ***that***[~~such an~~] assessment. ***When informing the members of a district about their right to have their land assessed at its agricultural use value, the board shall also inform the members that only land that meets the requirements of KRS Chapter 132 shall be eligible for the agricultural assessment.***

[~~(b) The board shall also notify the local property valuation administrator whenever a farm is released or withdrawn from an agricultural district.~~]

(19)[~~(18)~~] The board may allow an amendment to an existing certified agricultural district if approved by the commission.

HJR 14, A JOINT RESOLUTION creating an All-Terrain Vehicle (ATV) Usage Task Force.

WHEREAS, Kentucky has vast scenic beauty, abundant flora and fauna, and diverse topography that appeals to ATV users; and

WHEREAS, ATVs are useful in farming practices and planting food plots, assisting hunters and trappers in moving their game and equipment, and providing recreational riding for the public; and

WHEREAS, ATVs do cause environmental impacts such as increased dust, soil erosion, and destruction of natural terrain, property, agricultural farmland, and wildlife habitats; and

WHEREAS, there is limited understanding of the statutory authority, agency jurisdictions, and social issues associated with ATV usage;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Agriculture with the, assistance of the Kentucky Transpiration Cabinet and the Kentucky Department of Wildlife Resources, is hereby directed to create a ATV Usage Task Force that shall study the impacts of, and the ways to stop, illegal usage of ATVs on private and public property, with particular emphasis on private farmland. The study shall include, but not be limited to, the identification of any legislation, policies, and penalties that regulate ATVs and any licensing and registration requirements. The task force shall also develop a strategy for promoting responsible ATV recreational usage.

Section 2. The task force shall be composed of the following seven members: The Commissioner of the Kentucky Department of Agriculture or his or her designee; the secretary of the Transportation Cabinet or his or her designee; the secretary of the Commerce Cabinet or his or her designee; the commissioner of the Kentucky Department of Fish and Wildlife Resources; one private citizen representing farmers from a list submitted by the Kentucky Farm Bureau and appointed to the task force by the Commissioner of Agriculture. One member from the House of Representatives appointed by the Speaker of the House of Representatives; and one member of the Senate appointed by the President of the Senate.

Section 3. The task force shall meet at least three times between July 1, 2007, and the date of the completion of its final report.

Section 4. The task force shall submit its final report, along with recommendations for any proposed legislation to the Legislative Research Commission for referral to the appropriate committee or committees by June 30, 2008.

The Committee Substitute to **HJR 14** is as follows:

HJR 14, A JOINT RESOLUTION creating an All-Terrain Vehicle (ATV) Usage Task Force.

WHEREAS, Kentucky has vast scenic beauty, abundant flora and fauna, and diverse topography that appeals to ATV users; and

WHEREAS, ATVs are useful in farming practices and planting food plots, assisting hunters and trappers in moving their game and equipment, and providing recreational riding for the public; and

WHEREAS, illegal trespass by ATVs on private farmland does cause environmental impacts such as increased dust, soil erosion, and destruction of natural terrain, property, agricultural crops, and wildlife habitats; and

WHEREAS, there is limited understanding of the statutory authority, agency jurisdictions, and social issues associated with ATV usage;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Recreational Trail Authority (KTRA) is hereby directed to study the impacts of, and the ways to stop, illegal trespass of ATVs on private and public property, with particular emphasis on private farmland. The authority shall also develop a strategy for promoting responsible ATV recreational usage.

Section 2. The authority shall submit its final report, along with recommendations for any proposed legislation to the Legislative Research Commission for referral to the appropriate committee or committees.

Section 3. Notwithstanding KRS 148.795, the Governor is hereby directed to appoint a member to the Kentucky Recreational Trails Authority representing the Kentucky Farm Bureau. The provisions in KRS 148.795(2) shall apply to the member appointed under this section.

The Committee Amendment No. 1 Title to **HJR 14** is as follows:

HJR 14, Amend title to read " A JOINT RESOLUTION directing the Kentucky Recreational Trail Authority (KTRA) to study illegal trespass by ATV users.".

HCR 28, A CONCURRENT RESOLUTION confirming the appointment of Wayne Mattingly to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and House of Representatives; and

WHEREAS, on July 12, 2006, by Executive Order 2006-811, the Governor appointed Wayne Mattingly to the Agricultural Development Board for a term expiring July 6, 2010; and

WHEREAS, Wayne Mattingly has been appointed as meeting the requirements of KRS 248.707, being an agricultural lender and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Wayne Mattingly to the Agricultural Development Board for a term expiring July 6, 2010.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Wayne Mattingly, 2835 Pleasant Valley Road, Owensboro, Kentucky 42303 and to the Governor.

HCR 30, A CONCURRENT RESOLUTION confirming the reappointment of Wayne Hunt to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and House of Representatives; and

WHEREAS, on July 12, 2006, by Executive Order 2006-811, the Governor reappointed Wayne Hunt to the Agricultural Development Board for a term expiring July 6, 2010; and

WHEREAS, Wayne Hunt has been reappointed as meeting the requirements of KRS 248.707, being an active farmer and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the reappointment of Wayne Hunt to the Agricultural Development Board for a term expiring July 6, 2010.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Wayne Hunt, 1000 Wayne Hunt Road, Herndon, Kentucky 42236 and to the Governor.

HCR 33, A CONCURRENT RESOLUTION confirming the reappointment of Vickie Yates Brown to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and House of Representatives; and

WHEREAS, on July 12, 2006, by Executive Order 2006-811, the Governor reappointed Vickie Yates Brown to the Agricultural Development Board for a term expiring July 6, 2010; and

WHEREAS, Vickie Yates Brown has been reappointed as meeting the requirements of KRS 248.707, being an attorney with farm experience and familiarity with agricultural policy and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the reappointment of Vickie Yates Brown to the Agricultural Development Board for a term expiring July 6, 2010.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Vickie Yates Brown, 3922 Massie Avenue, Unit 10, Louisville, Kentucky 40207 and to the Governor.

The Committee on Banking and Insurance reported **HB 79,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 79, AN ACT relating to long-term care insurance rates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.14-600 TO 304.14-625 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any long-term care insurance policy on or after January 1, 2008, shall, before use thereof, file with the executive director its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers. The insurer shall also submit a copy of the filing to the Attorney General and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the executive director. The insurer shall submit a new filing to reflect any material change to the previously filed and approved rate filing. For all other changes, the insurer shall submit an amendment to a previously approved rate filing.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the executive director prior to approval by the executive director. A rate filing shall be approved or disapproved by the executive director within sixty (60) days after the date of filing. Should sixty (60) days expire after the executive director receives the filing before approval or disapproval of the filing, the filing shall be deemed approved.

(b) In the circumstances of a filing that has been deemed approved or has been disapproved under paragraph (a) of this subsection, the executive director may order a retroactive reduction of rates to a reasonable rate if the executive director subsequently determines that the filing contained misrepresentations or was based on fraudulent information, and if after applying the factors in subsection (3) of this section the executive director determines that the rates were unreasonable. If the executive director seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the executive director shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the executive director shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Previous premium rates or fees for the policies or contracts to which the filing applies;

(c) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(d) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(e) Other factors as deemed relevant by the executive director.

(4) At any time the executive director, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the executive director determines that the rates or fees previously approved are in violation of this chapter.

(5) The executive director may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section, including, but not limited to:

(a) Certification by a qualified actuary that:

1. The initial premium rate schedule is sufficient to cover anticipated costs under moderately-adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; and

2. As to any premium rate schedule increase, if the requested premium rate schedule increase is implemented and the underlying assumptions are realized, no further premium rate schedule increases are anticipated;

(b) An actuarial memorandum justifying any rate schedule change; and

(c) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer, or in the case of renewal premium rate schedules, the renewal premium rate schedules are not greater than new business premium rate schedules, except for differences attributable to benefits.

(6) (a) The executive director shall hold a hearing upon written request by the Attorney General. The written request shall be based upon one (1) or more of the reasons set out in subsection (3) of this section and shall state the applicable reasons.

(b) An insurer may request a hearing, pursuant to KRS 304.2-310, with regard to any action taken by the executive director under this section as to the disapproval of rates or an order of a retroactive reduction of rates.

(c) The hearing shall be a public hearing conducted in accordance with KRS 304.2-310.

Section 2. KRS 304.14-630 is amended to read as follows:

The executive director shall issue administrative regulations to *implement the provisions of Section 1 of this Act and to* establish standards for premium rate practices and rate increases for long-term care benefits.

The Committee Substitute to **HB 79** is as follows:

HB 79, AN ACT relating to long-term care insurance rates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.14-600 TO 304.14-625 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any long-term care insurance policy in this state shall, before use thereof, file for approval with the executive director its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers. The insurer shall also submit a copy of the filing to the Attorney General and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with and approved by the executive director. The insurer shall submit a new filing to reflect any change to the previously filed and approved rate filing.

(2) (a) A rate filing shall be approved or disapproved by the executive director within sixty (60) days after the date of filing. The executive director may extend by not more than a thirty (30) day period within which the executive director may affirmatively approve or disapprove a filing by giving notice to the insurer of the extension before expiration of the initial sixty (60) day period. At the expiration of any period as so extended, and in the absence of prior affirmative approval or disapproval, the filing shall be deemed approved.

(b) In the circumstances of a filing that has been deemed approved or has been disapproved under paragraph (a) of this subsection, the executive director may order a retroactive reduction of rates to a reasonable rate if the executive director subsequently determines that the filing contained misrepresentations or was based on fraudulent information. If the executive director seeks to order a retroactive reduction of rates and more than

one (1) year has passed since the date of the filing, the executive director shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the executive director shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Previous premium rates or fees for the policies or contracts to which the filing applies;

(c) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(d) Other factors as deemed relevant by the executive director.

(4) At any time the executive director, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the executive director determines that the rates or fees previously approved are in violation of this chapter.

(5) The executive director shall by administrative regulation prescribe additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section.

(6) (a) The executive director shall hold a hearing upon written request by the Attorney General. The written request shall be based upon one (1) or more of the reasons set out in subsection (3) of this section and shall state the applicable reasons.

(b) An insurer may request a hearing, pursuant to KRS 304.2-310, with regard to any action taken by the executive director under this section as to the disapproval of rates or an order of a retroactive reduction of rates.

(c) The hearing shall be a public hearing conducted in accordance with KRS 304.2-310.

Section 2. KRS 304.14-630 is amended to read as follows:

The executive director shall issue administrative regulations to ***implement the provisions of Section 1 of this Act and to*** establish standards for premium rate practices and rate increases for long-term care benefits.

Section 3. This Act shall take effect on July 1, 2008.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 63**, with Committee Substitute attached thereto, **HB 94**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 63, AN ACT relating to honoring military service.

WHEREAS, the state government hiring preference for veterans helps to eliminate the penalty for time spent in military service; and

WHEREAS, the preference rewards veterans for their sacrifices and recognizes the economic loss they suffered while serving our country in uniform; and

WHEREAS, the preference restores veterans to a favorable competitive position for state government employment; and

WHEREAS, the preference acknowledges the larger obligation owed to disabled veterans and their families;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.150 is amended to read as follows:

(1) Any ***person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge***~~[honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, shall have five (5) points added to ***the veteran's***~~[his]~~ entrance examination score for classified positions. Any ***current member of the active military, military reserves, or National Guard***~~[Kentucky National Guard member, or a former member of the Kentucky National Guard who has been honorably discharged,]~~ shall be entitled to the same number of points.

(2) Any ***person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge***~~[honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, whom the Veterans Administration or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to ***the veteran's***~~[his]~~ entrance examination score for a classified position.

(3) The spouse of ***a person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge,***~~[an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of~~

~~the military service who was inducted into that service through voluntary or involuntary enlistment~~] who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies ***the veteran***[~~him~~] for positions along the general line of ***the veteran's***[~~his~~] usual occupation shall have ten (10) preference points added to ***the spouse's***[~~his~~] entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled[~~war~~] veteran recovers.

(4) Until remarriage, the surviving spouse of ***a person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge***[~~an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment~~], shall have ten (10) preference points added to ***the spouse's***[~~his~~] entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable ***or general*** discharge separation.

(5) A parent totally or partially dependent on a ***person who served in the active military, military reserves, or National Guard***[~~soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment~~], and who lost his ***or her*** life under honorable conditions while on active duty or active duty for training purposes, or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to ***the parent's***[~~his~~] examination score for a classified position.

(6) The preference points granted by subsections (1) through (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points ***may***[~~shall not~~] exceed one hundred (100).

(7) (a) When a register certificate is transmitted to a state agency for employment consideration, that certificate shall clearly identify all individuals entitled to preference points under the provisions of subsections (1) to (6) of this section, whether or not an examination is actually a part of the selection method. Regardless of the selection method used to fill a vacancy, these individuals shall be clearly identified.

(b) 1. Except as provided in subparagraph 2. of this paragraph, the employing agency shall offer an interview to all individuals identified in paragraph (a) of this subsection, including individuals presently employed by the Commonwealth of Kentucky and applying for another classified position within state government.

2. When the number of individuals identified in paragraph (a) of this subsection equals or exceeds five (5), the employing agency shall offer an interview to no fewer than the five (5) most qualified of those individuals as identified by the employing agency.

The Committee Substitute to **HB 63** is as follows:

HB 63, AN ACT relating to honoring military service.

WHEREAS, the state government hiring preference for veterans helps to eliminate the penalty for time spent in military service; and

WHEREAS, the preference rewards veterans for their sacrifices and recognizes the economic loss they suffered while serving our country in uniform; and

WHEREAS, the preference restores veterans to a favorable competitive position for state government employment; and

WHEREAS, the preference acknowledges the larger obligation owed to disabled veterans and their families;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.150 is amended to read as follows:

(1) Any ***person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge***[~~honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment~~], shall have five (5) points added to ***the veteran's***[~~his~~] entrance examination score for classified positions. Any ***current member of the active military, military reserves, or National Guard***[~~Kentucky National Guard member, or a former member of the Kentucky National Guard who has been honorably discharged,~~] shall be entitled to the same number of points.

(2) Any ***person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge***[~~honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment~~], whom the Veterans Administration or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to

the veteran's~~[his]~~ entrance examination score for a classified position.

(3) The spouse of ***a person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge,***~~[an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~ who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies ***the veteran***~~[him]~~ for positions along the general line of ***the veteran's***~~[his]~~ usual occupation shall have ten (10) preference points added to ***the spouse's***~~[his]~~ entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled~~[war]~~ veteran recovers.

(4) Until remarriage, the surviving spouse of ***a person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge***~~[an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, shall have ten (10) preference points added to ***the spouse's***~~[his]~~ entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable ***or general*** discharge separation.

(5) A parent totally or partially dependent on a ***person who served in the active military, military reserves, or National Guard***~~[soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, and who lost his ***or her*** life under honorable conditions while on active duty or active duty for training purposes, or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to ***the parent's***~~[his]~~ examination score for a classified position.

(6) The preference points granted by subsections (1) through (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points ***may***~~[shall not]~~ exceed one hundred (100).

(7) (a) When a register certificate is transmitted to a state agency for employment consideration, that certificate shall clearly identify all individuals entitled to preference points under the provisions of subsections (1) to (6) of this section, whether or not an examination is actually a part of the selection method. Regardless of the selection method used to fill a vacancy, these individuals shall be clearly identified.

(b) 1. Except as provided in subparagraph 2. of this paragraph, the employing agency shall offer an interview to all individuals identified in paragraph (a) of this subsection, including individuals presently employed by the Commonwealth of Kentucky and applying for another classified position within state government.

2. When the number of individuals identified in paragraph (a) of this subsection equals or exceeds five (5), the employing agency shall offer an interview to no fewer than five (5).

HB 94, AN ACT relating to methamphetamine contamination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that properties are being contaminated with hazardous chemical residues created by the manufacture of methamphetamine. Innocent members of the public have been harmed from exposure to these residues because properties are not properly decontaminated prior to the subsequent rental, sale, or use of the properties. Remediation of properties has been frustrated by a lack of comprehensive standards and procedures for decontamination of properties found to have been involved with methamphetamine production. The purpose of this section is to protect the public health, safety, and welfare by providing specific cleanup standards and procedures.

(1) As used in this section, the following definitions shall apply:

(a) "Inhabitable property" means any building or structure and any related curtilage, water, water system, or sewer system used as a clandestine methamphetamine drug lab that is intended to be primarily occupied by people, including a mobile home, that may be sold, leased, or rented for any length of time. "Inhabitable property" shall not include a hotel, as defined in KRS 219.011;

(b) "Surface material" means any porous or nonporous substance common to the interior of a building or structure, including but not limited to ceilings and walls, window coverings, floor and floor coverings, counters, furniture, heating and cooling duct work, and any other surface to which inhabitants of the building or structure may be exposed; and

(c) "Related hazardous material or hazardous waste" means any hazardous waste as defined in this chapter or hazardous material as defined in KRS 174.405 that is related to the clandestine production of

methamphetamine.

(2) The decontamination standard for methamphetamine inside inhabitable property is less than or equal to one-tenth of one (0.1) microgram of methamphetamine per one hundred (100) square centimeters of surface material, unless the cabinet promulgates an administrative regulation providing for a different standard. The cabinet may provide for other standards by administrative regulations as follows:

(a) Standards for precursors to methamphetamine that are consistent with the standard for methamphetamine or standards for related hazardous material or hazardous waste; and

(b) The number and locations of surface material samples to be collected based on the circumstances of the contamination and acceptable testing methods.

In the absence of an administrative regulation as described in paragraph (b) of this subsection, at least three (3) samples must be collected from the surface material most likely to be contaminated at each property.

(3) (a) Only contractors certified by the Environmental and Public Protection Cabinet shall be authorized to conduct the decontamination services for inhabitable properties. The cabinet shall maintain a list of vendors and contractors with current certification to provide decontamination services. In order to become a certified contractor, a contractor shall:

1. Register with the cabinet;

2. Post a bond, or obtain other financial assurance, in the amount of one million dollars ($1,000,000);

3. Certify that decontamination will be performed safely, and in accordance with 803 KAR 2:403; and

4. Certify that each cleanup conducted meets the decontamination standard required by subsection (2) of this section.

(b) Upon registration, the Environmental and Public Protection Cabinet shall either accept or deny the contractor's certification. The cabinet may revoke the certification of any contractor for cause and may collect the forfeited financial assurance of any contractor found to be in violation of this section. Forfeited financial assurance may be used by the cabinet to decontaminate inhabitable properties.

(c) The cabinet may promulgate administrative regulations to establish standards and procedures for contractor certification and to establish reasonable fees to implement this section.

(4) When a state or local law enforcement agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall immediately report the contamination in writing to the local health department.

(5) Upon receipt of a written report of methamphetamine contamination of an inhabitable property provided by a state or local law enforcement agency under subsection (4) of this section, a local health department shall act to protect the public from health hazards posed by methamphetamine contamination of inhabitable property. To carry out this responsibility, a local health department shall rely on its powers under KRS Chapter 212.

(6) To effect the provisions and promote the purposes of this section, the Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice Cabinet shall integrate their efforts with other state agencies to provide information and training to the public about the health hazards associated with methamphetamine laboratories.

(7) The Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice Cabinet shall pursue funds from the federal government, through grants or any other funding source, to help pay for the cost of assessment and decontamination of inhabitable properties.

Section 2. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

(a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

(b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) (a) To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a member of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes, during that member's federal active duty. To qualify for a grant, a member of a state National Guard or a Reserve component shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and

(b) To provide a member of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes, and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty.

(29) To establish a program to assist persons and families of lower and moderate income to help defray the cost of assessment and decontamination services required under Section 1 of this Act. To qualify for the program, a person shall meet reasonable standards established by the corporation. A person shall not be eligible for the program if convicted of a crime or found by the corporation to be responsible for contamination of the relevant property through methamphetamine production.

The Kentucky Housing Corporation shall be exempt from the regulations of the Office of Insurance and the laws of the Commonwealth relating thereto.

The Committee Substitute to **HB 94** is as follows:

HB 94, AN ACT relating to methamphetamine contamination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that properties contaminated with hazardous chemical residues created by the manufacture of methamphetamine endanger innocent members of the public due to exposure to these residues where properties are not properly decontaminated prior to the subsequent rental, sale, or use of the properties. Remediation of properties has been frustrated by a lack of comprehensive standards and procedures for decontamination of properties found to have been involved with methamphetamine production. The purpose of this section where law enforcement has found evidence of the manufacture of methamphetamine is to protect the public health, safety, and welfare by providing specific cleanup standards and procedures.

(1) As used in this section, the following definitions shall apply:

(a) "Inhabitable property" means any building or structure and any related curtilage, water, water system, or sewer system used as a clandestine methamphetamine drug lab that is intended to be primarily occupied by people, including a mobile home, that may be sold, leased, or rented for any length of time. "Inhabitable property" shall not include a hotel, as defined in KRS 219.011;

(b) "Surface material" means any porous or nonporous substance common to the interior of a building or structure, including but not limited to ceilings and walls, window coverings, floor and floor coverings, counters, furniture, heating and cooling duct work, and any other surface to which inhabitants of the building or structure may be exposed; and

(c) "Related hazardous material or hazardous waste" means any hazardous waste as defined in this chapter or hazardous material as defined in KRS 174.405 that is related to the clandestine production of methamphetamine.

(2) The decontamination standard for methamphetamine inside inhabitable property is less than or equal to one-tenth of one (0.1) microgram of methamphetamine per one hundred (100) square centimeters of surface material, unless the cabinet promulgates an administrative regulation providing for a different standard. The cabinet may provide for other standards by administrative regulations as follows:

(a) Standards for precursors to methamphetamine that are consistent with the standard for methamphetamine or standards for related hazardous material or hazardous waste; and

(b) The number and locations of surface material samples to be collected based on the circumstances of the contamination and acceptable testing methods.

In the absence of an administrative regulation as described in paragraph (b) of this subsection, at least three (3) samples must be collected from the surface material most likely to be contaminated at each property.

(3) (a) Only contractors certified by the Environmental and Public Protection Cabinet shall be authorized to conduct the decontamination services for inhabitable properties. The cabinet shall maintain a list of vendors and contractors with current certification to provide decontamination services. In order to become a certified contractor, a contractor shall:

1. Register with the cabinet;

2. Post a bond, or obtain other financial assurance, in the amount of one million dollars ($1,000,000);

3. Certify that decontamination will be performed safely, and in accordance with 803 KAR 2:403; and

4. Certify that each cleanup conducted meets the decontamination standard required by subsection (2) of this section.

(b) Upon registration, the Environmental and Public Protection Cabinet shall either accept or deny the contractor's certification. The cabinet may revoke the certification of any contractor for cause and may collect the forfeited financial assurance of any contractor found to be in violation of this section. Forfeited financial assurance may be used by the cabinet to decontaminate inhabitable properties.

(c) The cabinet may promulgate administrative regulations to establish standards and procedures for contractor certification and to establish reasonable fees to implement this section.

(4) When a state or local law enforcement agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall immediately report the contamination in writing to the local health department.

(5) Upon receipt of a written report of methamphetamine contamination of an inhabitable property provided by a state or local law enforcement agency under subsection (4) of this section, a local health department shall act to protect the public from health hazards posed by methamphetamine contamination of inhabitable property. To carry out this responsibility, a local health department shall rely on its powers under KRS Chapter 212.

(6) To effect the provisions and promote the purposes of this section, the Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice Cabinet shall integrate their efforts with other state agencies to provide information and training to the public about the health hazards associated with methamphetamine laboratories.

(7) The Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice Cabinet shall pursue funds from the federal government, through grants or any other funding source, to help pay for the cost of assessment and decontamination of inhabitable properties.

Section 2. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

(a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

(b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) (a) To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a member of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes, during that

member's federal active duty. To qualify for a grant, a member of a state National Guard or a Reserve component shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and

(b) To provide a member of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes, and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty.

(29) To establish a program to assist persons and families of lower and moderate income to help defray the cost of assessment and decontamination services required under Section 1 of this Act. To qualify for the program, a person shall meet reasonable standards established by the corporation. A person shall not be eligible for the program if convicted of a crime or found by the corporation to be responsible for contamination of the relevant property through methamphetamine production.

The Kentucky Housing Corporation shall be exempt from the regulations of the Office of Insurance and the laws of the Commonwealth relating thereto.

The Committee on Judiciary reported **HB 16** and **HB 226** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to criminal record expungement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been convicted of a Class D felony or a series of Class D felonies arising from a single incident may petition the court in which he or she was convicted for expungement of his or her felony record. The person shall be informed of the right at the time of adjudication.

(2) The petition shall be filed no sooner than ten (10) years after the time of adjudication. The petition shall specify the name and address of any identified victim of the crime, if any, or, if the victim of the crime is deceased or otherwise unavailable, the name and address of a member of the victim's family. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(3) Upon the filing of a petition, the court shall set a date for a hearing and shall mail a copy of the petition to the Commonwealth's attorney and to each victim or family member identified in the petition together with a notice stating:

(a) That a petition for expungement has been filed;

(b) That the person named in the petition has been identified as a victim of the offense or as a family member of a victim of the offense;

(c) That the person has the right to consult with and be interviewed by the Commonwealth's attorney on the question of whether the request for expungement should be granted, and that the Commonwealth's attorney may communicate the person's opinion on the expungement petition to the court; and

(d) The date, time, and place that the court has set the petition for a hearing.

(4) When considering an application for felony expungement, the Commonwealth's attorney shall:

(a) Have a criminal record check made to ascertain whether the person is eligible for felony expungement;

(b) Interview and consult with any victim of the crime or a member of the victim's family if an interview or consultation is requested by that person; and

(c) Conduct any other investigation the Commonwealth's attorney determines may be necessary with regard to the petitioner and the circumstances of the crime so as to enable him or her to make an informed decision whether to recommend felony expungement.

(5) The result of any interview and recommendations of the victim of the crime or the victim's family member under subsection (4) of this section may be presented to the court when it considers an application for felony expungement.

(6) The Commonwealth's attorney shall make a recommendation upon each application for felony expungement to the court. If the Commonwealth's attorney recommends against granting the petition for felony expungement, he or she shall set forth, with specificity and in detail, the reasons for opposing the petition. A recommendation against granting the petition for felony expungement shall be filed with the court and shall be a public record.

(7) If the application for felony expungement is approved by the court, the approval shall be in open court and open to the public and the Commonwealth's attorney shall take reasonable steps to notify the victim and the victim's family of the time, date, and location of the hearing.

(8) The court shall order all records in the custody of the court and any records in the custody of any other agency sealed, if, at the hearing, the court finds that:

(a) The offense was not a sex offense, an offense committed against a minor, or a felony offense in KRS Chapter 209, 507, or 508;

(b) The person had no previous felony conviction;

(c) The person has not, since the time of the conviction in question, been convicted of a felony or misdemeanor;

(d) The person is not currently charged with a felony or a misdemeanor;

(e) The person has successfully completed any sentence of incarceration, probation, or conditional discharge;

(f) The person has paid all restitution ordered by a court; and

(g) The offense was an offense against the Commonwealth of Kentucky.

(9) (a) Except as provided in Section 4 of this Act, upon entry of an order to seal the records, and payment to the circuit clerk's office of two hundred eighty dollars ($280), all proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the person and the court may properly reply that no record exists with respect to the petitioner; and the petitioner shall not have to disclose facts relating to the record on an application for employment, credit, or any other type of application. The fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks.

(b) The circuit clerk shall remit or retain the following portions of the fee collected pursuant to this section:

1. Seventy-five dollars ($75) of the fee shall be retained by the clerk for use in processing the application and expunging the records;

2. One hundred twenty-five dollars ($125) of the fee shall be forwarded to the Department of Kentucky State Police for use in processing the application and in expunging the records; and

3. Eighty dollars ($80) of the fee shall be forwarded to the Department of Corrections for use in processing the application and in expunging the records.

(10) Copies of the order of expungement shall be sent to each agency or official holding records of the proceedings in question.

(11) Except as provided in Section 4 of this Act, inspection of records included in the order of expungement may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

(12) This section shall be deemed to be retroactive.

Section 2. KRS 431.078 is amended to read as follows:

(1) Any person who has been convicted of a misdemeanor or a violation, or a series of misdemeanors or violations arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record. The person shall be informed of the right at the time of adjudication.

(2) The petition shall be filed no sooner than five (5) years after the *time of adjudication*[~~completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later~~].

(3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(4) The court shall order sealed all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:

(a) The offense was not a sex offense or an offense committed against a child;

(b) The person had no previous felony conviction;

(c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;

(d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;

(e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and

(f) The offense was an offense against the Commonwealth of Kentucky.

(5) Upon the entry of an order to seal the records, and payment to the circuit clerk of *fifty*[~~twenty-five~~] dollars *($50)*[~~($25)~~], the proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks.

(6) Copies of the order shall be sent to each agency or official named therein.

(7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

(8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.

Section 3. KRS 527.040 is amended to read as follows:

(1) A person is guilty of possession of a firearm by a convicted felon when he possesses, manufactures, or transports a firearm when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:

(a) Been granted a full pardon by the Governor or by the President of the United States;

(b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended*; or*

(c) Had his record expunged by any court of the Commonwealth of Kentucky.

(2) Possession of a firearm by a convicted felon is a Class D felony unless the firearm possessed is a handgun in which case it is a Class C felony.

(3) The provisions of this section shall apply to any youthful offender convicted of a felony offense under the laws of this Commonwealth. The exceptions contained in KRS 527.100 prohibiting possession of a handgun by a minor shall not apply to this section.

(4) The provisions of this section with respect to handguns, shall apply only to persons convicted after January 1, 1975, and with respect to other firearms, to persons convicted after July 15, 1994.

SECTION 4. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

The Administrative Office of the Courts shall retain an index of expungement orders entered under Section 1 of this Act. The index shall only be accessible to persons preparing a presentence investigation under KRS 532.050. If the index indicates that the defendant for whom the presentence investigation is being prepared has had a prior felony expunged under Section 1 of this Act, the person preparing the report may, notwithstanding the provisions of Section 1 of this Act, both access the expunged record and include information from the expunged record in the presentence investigation report.

HB 226, AN ACT relating to the Public Service Student Law School Loan Assistance Program and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Authorized reimbursement period" means a one (1) year period during which the student law school loan expenses of an eligible attorney are authorized to be reimbursed under Section 2 of this Act;

(2) "Eligible attorney" means an attorney:

(a) Currently working, either full-time or part-time, for the:

1. Office of the Attorney General or the unified prosecutorial system pursuant to KRS Chapter 15, including assistant Commonwealth's attorneys, assistant county attorneys, and assistant attorney generals; or

2. Department of Public Advocacy under KRS Chapter 31, including those attorneys employed full-time by a nonprofit organization operating under a contract with the Department of Public Advocacy pursuant to KRS Chapter 31, and those working on contract with the Department of Public Advocacy pursuant to KRS Chapter 31; or

3. Nonprofit legal services organizations designated as eligible to receive funds from the federal Legal Services Corporation to provide civil legal services to the indigent pursuant to KRS Chapter 27A;

(b) Whose application under Section 2 of this Act has been accepted and authorized to receive assistance in the repayment of his or her student law school loan expenses by the Kentucky Higher Education Assistance Authority; and

(c) Who is not participating in any other program to pay for student law school loan expenses;

(3) "Full-time" means at least one hundred (100) hours per month;

(4) "Part-time" means at least fifty (50) hours per month, but less than one hundred (100) hours per month;

(5) "Student law school loan expenses" means the cumulative total of the eligible attorney's outstanding student law school loans; and

(6) "Student law school loan" means any indebtedness incurred by the eligible attorney solely to pay higher education expenses covering the cost of attendance at any law school at which the eligible attorney completed course work required to obtain a law degree. Student law school loan includes indebtedness used to refinance indebtedness that qualifies as a student law school loan, but shall not include any indebtedness:

(a) Owed to a person who is related to the eligible attorney within the meaning of Section 267(b) of the Internal Revenue Code; or

(b) Disallowed as a loss under Section 707(b)(1) of the Internal Revenue Code.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The Public Service Student Law School Loan Assistance Program is hereby created and shall be administered by the Kentucky Higher Education Assistance Authority. Any eligible attorney as defined in Section 1 of this Act may apply to the Kentucky Higher Education Assistance Authority for assistance under the program in repaying the attorney's student law school expenses.

(2) To be accepted for student law school loan repayment assistance, an applying eligible attorney shall:

(a) Be currently licensed to practice law in the Commonwealth of Kentucky; and

(b) Sign a statement agreeing to remain in his or her present employment for a period of one (1) year or repay in full any funds that were paid to the eligible attorney during that reimbursement period.

(3) The corporation specified in Section 6 of this Act shall, to the extent funds are appropriated and available for such purposes, and on a first-come, first-served basis, either advance a new loan to discharge the student law student school loans or authorize reimbursement to all eligible attorneys who apply and meet the qualifications of subsection (2) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Higher Education Assistance Authority shall annually reimburse an eligible attorney for a portion of the attorney's student law school loan expenses actually paid by the eligible attorney in the preceding year during the authorized reimbursement period, to the extent funds are appropriated and available, as determined under subsection (2) of this section.

(2) The portion of student law school loan expenses to be reimbursed each year to an eligible attorney shall be an amount determined as follows:

(a) For a full-time attorney, the amount shall be the aggregate of the lesser of the eligible attorney's scheduled monthly payments for student law school loan expenses or five hundred dollars ($500) per month; and

(b) For a part-time attorney, the amount shall be the aggregate of the lesser of one-half (1/2) of the eligible attorney's scheduled monthly payments for student law school loan expenses or two hundred fifty dollars ($250) per month.

(3) An eligible attorney receiving student law school loan assistance who voluntarily terminates his or her employment before the expiration of the authorized reimbursement period shall be required to repay in full any funds that were paid to the eligible attorney during that reimbursement period, with interest accruing at the annualized rate applicable to the student law school loan expenses reimbursed.

(4) An eligible attorney receiving student law school loan assistance who takes a leave of absence or whose employment is involuntarily terminated shall be responsible for all student law school loan payments during the leave of absence or after the date of termination.

(5) An eligible attorney whose employment is terminated after the expiration of his or her authorized reimbursement period shall be responsible for all future unpaid expenses.

(6) After the expiration of an eligible attorney's authorized reimbursement period, an attorney who desires further student law school loan assistance shall be required to reapply for the assistance for a new one (1) year period, under the provisions of Section 2 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Higher Education Assistance Authority shall administer the provisions of Sections 1 to 5 of this Act.

(2) The Kentucky Higher Education Assistance Authority shall promulgate administrative regulations that create an application and repayment process for the administration of Sections 1 to 5 of this Act.

(3) The Kentucky Higher Education Assistance Authority may, in accordance with any administrative regulations promulgated by the authority, delegate to the entities employing eligible attorneys the following responsibilities:

(a) Certifying an applicant's employment status; and

(b) Notifying the authority of the termination of employment or leave of absence, last known residential address, business and residential phone numbers, and any information about new employment of an eligible attorney.

(4) Reimbursement of student law school loan expenses shall not be awarded to any person who is in default on any obligation to the Kentucky Higher Education Assistance Authority or the Kentucky Higher Education Student Loan Corporation under any program administered by the Kentucky Higher Education Assistance Authority or the Kentucky

Education Student Loan Corporation until financial obligations to the Kentucky Higher Education Student Loan Corporation are satisfied, except that ineligibility for this reason may be waived by the Kentucky Higher Education Assistance Authority at its sole discretion.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The funds received to implement Sections 1 to 5 of this Act shall be credited to the Public Service Student Law School Loan Assistance Program trust fund, which is hereby created in the State Treasury.

(2) Federal funds or other funds that may be made available to supplement or match state funds for the Public Service Student Law School Loan Assistance Program created by Section 2 of this Act shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the Public Service Student Law School Loan Assistance Program trust fund, including funds recovered from attorneys that failed to complete their required service during the reimbursement period, shall be used to finance the Public Service Student Law School Loan Assistance Program created by Section 2 of this Act, as well as to defray administrative expenses incurred by the Kentucky Higher Education Assistance Authority and are hereby appropriated.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(5) Any interest earnings of the trust fund shall become part of the trust fund and shall not lapse to the general fund.

Section 6. KRS 164A.337 is amended to read as follows:

(1) The board is authorized to incorporate an organization pursuant to KRS Chapter 273 for the eleemosynary, charitable, and educational purposes of administering an endowment trust. The organization so created shall be an instrumentality of the Commonwealth, but shall possess no part of the sovereign powers of the Commonwealth. The corporation shall be created to qualify as a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) The endowment trust created pursuant to subsection (1) of this section shall solicit and accept gifts, grants, donations, bequests, or other endowments, including general fund appropriations from the Commonwealth and grants from any federal or other governmental agency, for the purposes of the endowment trust.

(3) The endowment trust shall provide ***assistance under the Public Service Student Law School Loan Assistance Program in accordance with the provisions of Sections 1 to 5 of this Act and*** student financial assistance benefits, including, but not limited to, grants, scholarships, or loans to pay higher education costs of members of the public, ***including but not limited to those individuals*** designated as beneficiaries of participation agreements under the Kentucky Educational Savings Plan Trust, who enroll in an institution of higher education in Kentucky.

(4) The board is authorized to transfer to the endowment trust, after its qualification under Section 501(c)(3) of the Internal Revenue Code, any funds or assets then held in the endowment fund initially established pursuant to KRS 164A.335.

(5) Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership***,***[~~ or~~] corporation***, or civic or nonprofit organization*** to the endowment trust shall be a grant, gift, or donation for the accomplishment of a valid public, eleemosynary, charitable, and educational purpose.

(6) The endowment trust shall submit an annual audited report, in accordance with KRS 164A.365(1) and (2), to the program administrator not later than the fifteenth of each September.

Section 7. KRS 42.320 is amended to read as follows:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:

(a) ***Forty-seven***[~~Forty-nine~~] percent ***(47%)***[~~(49%)~~] of each court cost shall be paid into the general fund;

(b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars ($5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars ($3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;

(d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;

(e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars ($2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;

(f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars ($1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;

(g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars

($1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;

(h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars ($350,000), shall be paid to the Justice Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;

(i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars ($5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received;[~~and~~]

(j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners***; and***

(k) Two percent (2%) of each court cost, up to one million two hundred thousand dollars ($1,200,000) deposited in the fund shall be paid to the Public Service Student Law School Loan Assistance Program trust fund created in Section 5 of this Act.

(3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.

(4) Any moneys collected above the prescribed amount shall be paid into the general fund.

Calendar

HB 64 and **HCR 26** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative Westrom moved that the rules be suspended to act on a legislative Citation. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 11**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the most recent members of Leadership Kentucky Association of Realtors as they visit the Chambers of the Kentucky House of Representatives during the 2007 Regular Session of the General Assembly. Inasmuch as this exceptional leadership program, sponsored by one of the largest professional trade associations in the Commonwealth of Kentucky, seeks to identify, train and cultivate future leaders for the local, state and national Realtor organizations, the members of this honorable body are delighted to join with Representative Susan Westrom in extending a warm welcome to these distinguished members of the Leadership KAR Class of 2007 and in congratulating them for having been selected to participate in this most prestigious leadership program. Done in Frankfort, Kentucky, this seventh day of February, in the year two thousand and seven.

Legislative Citation No. 11 was adopted without objection.

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **HB 102, 123, HCR 12, HJR 23,** and **HB 345**. Agreed.

Representative Adkins moved the adoption of the following **HR 44**:

HR 44, A RESOLUTION to amend Rule 39 and Rule 42 of the Rules of Procedure governing the 2007 Session of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Rule 39 and Rule 42 of the Rules of Procedure governing the 2007 Session of the House of Representatives are amended to read as follows:

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chair, Vice-Chairs and the members of all standing and special committees and shall fill any vacancies thereon. ***The Committee on Committees shall appoint a First Vice-Chair for the Committee on Appropriations and Revenue, whose duties shall be described in Rule 42 of these Rules.*** In making the appointments to standing committees, the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in that previous regular session. That appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chair in the preceding regular session shall select for reappointment the committee the member so chaired if the member wishes to be considered for the chairmanship of that committee; if another selection is made, the member shall not be reappointed chair of the committee which the member chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chair of a standing committee. A chair of a standing committee or statutory committee shall not serve as a member of the Committee on Appropriations and Revenue. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice-Chair shall act in the absence of the Chair. The Chair of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees, the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than 29 members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 42. **Liaison Subcommittees:** The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

The Committee on Committees shall appoint to each standing subcommittee four members of the Committee on Appropriations and Revenue and three members~~[On four of the subcommittees, as designated by the Committee on Committees, four members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee, and three members shall be appointed by the Committee on Committees]~~ from the membership of one or more of the remaining standing committees of the House.~~[On the remaining two subcommittees, either three or four members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House, and the remaining members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee.]~~ A member of the Committee on Appropriations and Revenue ***shall***~~[may, however,]~~ serve on no more than one standing subcommittee. The chair of each standing subcommittee shall be appointed by the ***Committee on Committees***~~[chair of the Committee on Appropriations and Revenue]~~ from ***among the members of the Committee on Appropriations and Revenue serving***~~[the membership of that committee]~~ on the particular standing subcommittee.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before a standing subcommittee.

The Committee on Committees may assign the chair of a standing committee as an ex officio non-voting member of a standing subcommittee.

The Committee on Committees shall appoint a First Vice-Chair for the Committee on Appropriations and Revenue in accordance with the provisions of Rule 39 of these Rules. The duties of the First Vice-Chair shall include:

1. Presiding over meetings of the Committee on Appropriations and Revenue in the absence of the chair;

2. Serving as an ex officio non-voting member of each standing subcommittee and attending standing subcommittee meetings;

3. Serving as a liaison between the Committee on Committees and the Committee on Appropriations and Revenue; and

4. Any other duties assigned to the First Vice-Chair by the Committee on Committees.

There being no objection, **HR 44** was adopted.

Representative Damron moved the adoption of the following **HR 86**:

HR 86, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Hugh C. "Buddy" Adams Jr.

WHEREAS, Hugh C. "Buddy" Adams Jr. was born December 10, 1924, to the late Hugh C. Sr. and Alice Gaines Adams, and departed this life on January 31, 2007, at the age of 82 years; and

WHEREAS, Hugh C. "Buddy" Adams Jr. was a graduate of Transylvania University, where he was a member of the Pi Kappa Alpha fraternity; and of the University of Kentucky, where he was a member of the Phi Delta Kappa fraternity; and

WHEREAS, Hugh C. "Buddy" Adams Jr. was a member of the Nicholasville Christian Church, where he served as a Deacon; a veteran of the United States Army Air Forces; and a retired school administrator in Jessamine County; and

WHEREAS, Hugh C. "Buddy" Adams Jr. had been engaged in the civic life of his community as a member of the Burgin Lions Club, Nicholasville Lions Club, Nicholasville Rotary Club, Lexington Champions Against Drugs and Alcohol, Lexington Volunteer Center Board, Jessamine County AARP, chairman of the Nicholasville Senior Citizens Board, Jessamine County Red Cross Board, Ombudsman Board in Nicholasville, Jessamine County Educational Foundation Board, Jessamine County Project Read Board, Lone Oak Country Club Board, Jessamine County Teachers, Special Advisory Commission of Senior Citizens, Jessamine County Cancer Society, American Association of School Administrators, President of the Kentucky Association of School Superintendents, and President of the Jessamine Council of the Arts; and

WHEREAS, Hugh C. "Buddy" Adams Jr. was preceeded in death by his sister, Margaret Wilson, and leaves behind his wife of 59 1/2 years, Mary Helen Vanarsdalle Adams; children, Jerry Adams, Cheryl Gould, and Mary Beth Estill; foster daughter, Fanny Sorkey; grandchildren, Chuck Adams, Camryn, Brevyn, and Ciara Estill; and great-grandchild, Charlie B. Adams;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of Hugh C. "Buddy" Adams Jr.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the late Hugh C. "Buddy" Adams Jr.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Jan Gould, Kentucky Retail Federation, 512 Capitol Avenue, Frankfort, Kentucky 40601.

There being no objection, **HR 86** was adopted.

Representative Denham moved the adoption of the following **HR 43**:

HR 43, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Suddith Rawlings.

WHEREAS, Suddith Rawlings was born on June 14, 1917, at Ringos Mills in Fleming County, to the late Gilbert and Ella Jackson Rawlings, and passed from this life on January 5, 2007, at the age of 89 years; and

WHEREAS, Mr. Rawlings was a renowned cattle and horse trader, and worked as an assistant state highway foreman for 20 years, and as foreman for five years. He also attended the Sharkey Freewill Baptist Church, and was a well-known figure in his community; and

WHEREAS, in addition to his parents, Mr. Rawlings was preceded in death by a brother, Preston Rawlings, and a sister, Venetta Opal Rawlings Sorrell. He is mourned by his loving wife of 70 years, Christine Black Rawlings, whom he married on October 8, 1936; a sister, Wanda R. Maxey; one nephew, Clarence Wallace and his wife Bertha; two great-nephews, Harold Dean Sorrell and Robert Scott Wallace and his wife, Joy; and a host of friends throughout the community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of Suddith Rawlings, and extends to his family, friends, and community its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Suddith Rawlings.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Christine Rawlings, 6505 Ringos Mills Road, Hillsboro, Kentucky 41049-8595.

There being no objection, **HR 43** was adopted.

Representative Jenkins moved the adoption of the following **HR 81**:

HR 81, A RESOLUTION endorsing a National Health Insurance Act.

WHEREAS, every person in Kentucky and in the United States deserves access to affordable, quality health care; and

WHEREAS, there is a growing crisis in health care in the United States of America, manifested in rising health care costs, increased premiums, out-of-pocket spending, decreased international business competitiveness, and massive layoffs; and

WHEREAS, approximately 582,000 Kentuckians lacked health insurance in 2004; and

WHEREAS, those insured now often experience unacceptable medical debt and sometimes life-threatening delays in obtaining health care; and

WHEREAS, one-half of all personal bankruptcies are due to illnesses or medical bills; and

WHEREAS, the increasing expense of Medicaid and the rising cost of insuring state employees and teachers can best be met not by limiting benefits, but by expanding them under a national, publicly-funded health insurance program; and

WHEREAS, the complex bureaucracy arising from our system of fragmented, for-profit, multi-payer system of health care financing consumes approximately thirty percent (30%) of United States health care spending; and

WHEREAS, researchers from Harvard University found that this bureaucracy consumed more than $4 billion of Kentucky's health care spending in 2003, which equals $8,216 per uninsured Kentucky resident, and these expenditures are enough to provide comprehensive coverage to everyone in Kentucky; and

WHEREAS, United States Representative John Conyers has introduced H.R. 676, the United States National Health Insurance Act, in the United States House of Representatives for the 110th Congress, and this act would provide a universal, comprehensive, single-payer system of high quality national health insurance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Kentucky General Assembly respectfully urges the United States Congress to enact H.R. 676, the United States National Health Insurance Act, sponsored by Representative John Conyers in the United States House Of Representatives for the 110th Congress.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the President of the United States and the members of the Kentucky Congressional Delegation.

There being no objection, **HR 81** was adopted.

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **HB 109**. Agreed.

Representative Adkins moved that **HB 3** be reassigned to the Committee on Elections, Constitutional Amendments and Intergovernmental Affairs and that the posting requirement be waived. Agreed.

Representative Adkins moved that **HB 5** be reassigned to the Committee on Tourism Development and Energy and that the posting requirement be waived. Agreed.

Representative Adkins moved that **HCR 27** be withdrawn. Agreed.

Representative Stein moved that **HB 269** be withdrawn. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 350, by Representative Denham: AN ACT relating to agroterrorism.

HB 351, by Representative Stewart: AN ACT relating to railroad crossings.

HB 352, by Representatives Keene, Draud, Horlander, Miller, Siler, Nesler, Simpson, Henley, Gray, Hoffman, Higdon, Graham, Marzian, Stein, Thompson, Firkins, Adams, Baugh and Brinkman: AN ACT relating to health benefit plan reimbursement of chiropractors.

HB 353, by Representatives Watkins, Stein, Wayne, and Marzian: AN ACT relating to cigarette surtax.

HB 7, by Representatives Webb and Richards: AN ACT relating to consumer protection.

HB 354, by Representatives Webb, McKee, Adams, Montell, and Rudy: AN ACT relating to tax credits for conservation easements.

HB 355, by Representative Simpson: AN ACT relating to area planning commissions.

HB 356, by Representatives Webb and Richards: AN ACT relating to government contracts.

HB 357, by Representatives Graham, Simpson, and Montell: AN ACT relating to the medical expenses of county jails.

HB 358, by Representative Combs: AN ACT relating to criminal justice.

HB 359, by Representative Moberly: AN ACT relating to information to be provided to the staff of the Legislative Research Commission.

HB 360, by Representative Moberly: AN ACT relating to the streamlined sales and use tax agreement.

HB 361, by Representative C. Belcher: AN ACT relating to state employee educational requirements.

HB 362, by Representative Burch: AN ACT relating to safety for state social service workers and declaring an emergency.

HB 363, by Representative Wilkey: AN ACT relating to the judicial department.

HB 364, by Representative Wilkey: AN ACT relating to crimes and punishments.

HB 365, by Representative Wilkey: AN ACT relating to civil actions.

HR 87, by Representatives Embry and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Thomas W. Clemons.

HCR 88, by Representative Burch: A CONCURRENT RESOLUTION establishing a task force on the death penalty.

HR 89, by Representatives Gooch and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist Robert Jason Settle.

HR 90, by Representatives Jenkins, Crimm, Marzian, Meeks, Clark, Owens, Firkins, Horlander, Burch, Riggs, Miller, and Weston: A RESOLUTION urging United States Senator Mitch McConnell and United States Representative John Yarmuth to obtain additional funding for the Louisville Bridges project.

HR 91, by Representative Damron: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Neal Christian Floyd.

HR 92, by Representatives Wuchner and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Corporal Christopher Tyler Warndorf.

HR 93, by Representatives DeCesare, Richards, and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Santiago M. Halsel.

HR 94, by Representatives DeCesare, Richards, and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Brock A. Beery.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Seniors, Military Affairs and Public Safety: **HB 51, 59, 92, 105, 128, 167, 213**

Health and Welfare: **HB 233, 252, 256, 109**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 3**

Motions, Petitions, and Communications (Continued)

Representative Edmonds moved that **HB 56** be withdrawn. Agreed.

Representative Hall moved that **HB 204** be withdrawn. Agreed.

Representative Hall moved the adoption of **HR 73**:

There being no objection, **HR 73** was adopted.

(On February 8, the House declared this motion out of order and of no effect. See Journal for Thursday, February 8, 2007, Seventh Legislative Day.)

Representative Damron moved the adoption of the following **HR 91**:

HR 91, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Neal Christian Floyd.

WHEREAS, Neal Christian Floyd departed this life on January 20, 2007, at the age of 33 years, after a brave struggle with brain cancer; and

WHEREAS, Mr. Floyd was a graduate of Jessamine County High School and the University of Kentucky where he obtained a B.S. in Agriculture and an M.S. in Vocational Education; and

WHEREAS, Neal Christian Floyd was an honorary Commissioner of Agriculture, a Kentucky Colonel, and a member of the Mt. Lebanon United Methodist Church, Jessamine County Young Farmers Association, Kentucky Young Farmers Association, Jessamine County Fair Board, Jessamine County and Kentucky Beef Cattle Association, and Jessamine County FFA Alumni Association; and

WHEREAS, Neal Christian Floyd student taught at Scott County High School in 1997, and became a teacher and FFA advisor in Jessamine County; and

WHEREAS, Neal Christian Floyd leaves behind his wife, Michelle Allen Floyd, son, Elliott Christian Floyd, and parents, Billie Neal and Anna "Twinkie" Hager Floyd, of Locust Heights, Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of Neal Christian Floyd.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the late Neal Christian Floyd.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Michelle Floyd, 114 Locust Heights, Nicholasville, Kentucky 40356.

There being no objection, **HR 91** was adopted.

Floor Amendments

Floor Amendment No. 1 to **HB 188**, by Representative DeCesare:

HB 188, On page 5, between lines 20 and 21 by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

A certified teacher employed in a public school shall receive a state tax credit up to the total amount of two-hundred fifty dollars ($250) spent from personal funds for school supplies used in the teacher's classroom or program."

On page 5, line 21 by changing "Section 3." to "Section 4.".

On page 7, line 1, by bracketing and striking through "and"; and

On page 7, line 2, by inserting "*; and*" after KRS 141.067 and placing brackets and strike-throughs around the period "."; and

On page 7, between lines 2 and 3 by inserting the following:

"*(e) The teacher's credit permitted by Section 3 of this Act.*".

Floor Amendment No. 1 to **HB 64**, by Representative DeCesare:

HB 64, On page 11, after line 13, by inserting the following:

"Section 8. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky General Assembly finds that it is not in the best interest of the Commonwealth for children in the public schools of the Commonwealth to be encouraged to accept or view polygamous or homosexual relationships as normative by placing such nontraditional lifestyles on the same level as traditional marriage as it is defined in the Kentucky Constitution.

(2) No student in the public schools of the Commonwealth shall be charged with bullying for expressing political, social, or moral opinions about polygamy or homosexuality in a way that is not physically threatening.".

Floor Amendment No. 1 to the Committee Substitute to **HB 79**, by Representative Gooch:

HB 79, On page 1, lines 7 and 8, by deleting "*The insurer shall also submit a copy of the filing to the Attorney General and shall comply with the provisions of this section.*"; and

On page 2, line 24, by deleting everything on the line after "*(6)*"; and

On page 2, by deleting lines 25 to 27 in their entirety; and

On page 3, line 1, by deleting "*(b)*" and inserting in lieu thereof "*(a)*"; and

On page 3, line 4, by deleting "*(c)*" and inserting in lieu thereof "*(b)*".

Floor Amendment No. 2 to **HB 64**, by Representative DeCesare:

HB 64, On page 1, lines 1 to 11, by deleting same and inserting the following in lieu thereof:

"Section 1. KRS 158.440 is amended to read as follows:

(1) The General Assembly finds that:

(a)[~~(1)~~] Every student should have access to a safe, secure, and orderly school that is conducive to learning;

(b)[~~(2)~~] All schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at risk of academic failure or ***are***[~~of~~] engaging in disruptive and disorderly behavior***,*** ***including but not limited to the harassment, intimidation, or bullying of another student***; and

(c)[~~(3)~~]State and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that lead to success in addressing safety and discipline within the schools.

(2) To preserve and defend the rights of students to express faith-based convictions in the classroom, the General Assembly finds that, in addition to being injured by other forms of hate speech, the psychological well-being of a student is injured when his or her faith-based values and convictions against homosexuality and same-sex marriage are openly ridiculed, mocked, or mischaracterized as bigoted, hateful, or homophobic.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representative Hall

HB 4, Representatives Hoffman, Owens, Meeks, Graham, Wilkey, Sims, Keene, Combs, Clark, C. Belcher, Burch, Bell, Wayne, Firkins, Miller, Glenn, and Simpson

HB 5, Representative Tilley

HB 6, Representative Tilley

HB 7, Representatives Owens, Rand, Gooch, Westrom, Pasley, McKee, Damron, Adams, Nelson, Ballard, Adkins, Stacy, Hall, Wilkey, Clark, Collins, Moberly, and Riner

HB 14, Representative Mobley

HB 16, Representative Simpson

HB 23, Representatives Montell and Weston

HB 25, Representative Weston

HB 26, Representatives Mobley, Embry, Rollins, Higdon, Harmon, Floyd, Wuchner, Crimm, Riggs, Bratcher, Moore, Dossett, Baugh, Couch, Ford, Fischer, Santoro, Osborne, Siler, DeCesare, Dedman, and Brinkman

HB 50, Representative Floyd

HB 51, Representative Moore

HB 53, Representative Marzian

HB 54, Representative Meeks

HB 59, Representative Moore

HB 60, Representative Keene

HB 63, Representatives Moore, L. Belcher, and Floyd

HB 65, Representatives Crimm, Keene, and Adams

HB 66, Representatives Floyd and Ford

HB 67, Representative Meeks

HB 71, Representative Hoffman

HB 74, Representative Westrom

HB 75, Representative Draud

HB 79, Representative Edmonds

HB 80, Representatives Embry, Fischer, Siler, DeWeese, Wuchner, and Horlander

HB 86, Representatives Adams and Keene

HB 90, Representative Meeks

HB 91, Representative Floyd

HB 94, Representatives Greer, Baugh, Draud, Adams, and Tilley

HB 97, Representatives Wuchner and Floyd

HB 103, Representative Bell

HB 105, Representative Moore

HB 120, Representatives Marzian and Hoffman

HB 124, Representatives Crimm, Weston, Jenkins, Firkins, Burch, Miller, and Keene

HB 137, Representative Fischer

HB 139, Representative Crimm

HB 141, Representative Meeks

HB 142, Representative Meeks

HB 155, Representative Weston

HB 156, Representative Draud

HB 174, Representatives Mobley, Baugh, Wuchner, Higdon, and Embry

HB 182, Representative Greer

HB 187, Representatives Montell and Koenig

HB 195, Representatives Floyd, Fischer, Dossett, and Baugh

HB 197, Representative Tilley

HB 202, Representative Osborne

HB 217, Representative Crimm

HB 225, Representatives Rollins, Simpson, and L. Belcher

HB 226, Representatives Simpson, L. Belcher, Edmonds, Meeks, and Marzian

HB 279, Representative Simpson

HB 293, Representative Embry

HB 299, Representatives Mobley, Draud, Floyd, Simpson, and Higdon

HB 318, Representatives Wayne and Weston

HB 321, Representative Simpson

HB 326, Representative Thompson

HB 332, Representatives J. Lee and DeCesare

HB 339, Representatives Stacy, Gray, A. Smith, Harmon, Montell, Gooch, L. Belcher, Sims, Edmonds, Hall, Crenshaw, Floyd, Draud, Henderson, Damron, Napier, Nelson, Greer, Riggs, Turner, Watkins, Dedman, Farmer, Couch, B. Smith, Dossett, Miller, Glenn, Meeks, Embry, Crimm, Brinkman, Butler, Yonts, Tilley, Henley, DeCesare, Kerr, Mobley, Ford, Westrom, Bratcher, Stewart, Fischer, Santoro, Arnold, S. Lee, Vincent, Cherry, Moore, Thompson, Baugh, Nesler, Riner, Webb, and Denham

HB 343, Representative S. Lee

HB 345, Representative Stein

HB 356, Representatives Wilkey, Clark, Collins, Adkins, Moberly, Riner, Simpson, and Graham

HB 359, Representative Pasley

HB 362, Representatives Yonts, Bell, McKee, Higdon, Hall, Edmonds, Westrom, A. Smith, Adams, Horlander, Firkins, Jenkins, Riner, Draud, Thompson, Denham, Wayne, Embry, Watkins, Stein, Marzian, Riggs, Miller, Crenshaw, Pullin, Stacy, Sims, Weston, Meeks, Glenn, Clark, and L. Belcher

HCR 18, Representative Rudy

HCR 71, Representative Baugh

HJR 84, Representatives Greer, Henley, Richards, and Combs

HR 61, Representative Moore

Announcements

Committee on Natural Resources and Environment, 9:00 a.m., Thursday, February 8, 2007, Room 129

Committee on Labor and Industry, 10:00 a.m., Thursday, February 8, 2007

Committee on Tourism Development and Energy, 10:00 a.m., Thursday, February 8, 2007, Room 131

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Thursday, February 8, 2007.

The motion that the House adjourn until 2:00 p.m., Thursday, February 8, 2007, was adopted by voice vote.

THURSDAY, FEBRUARY 8, 2007

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Dr. John Hurtgen, Dean of the School of Theology, Campbellsville University, and the guest of Representative Riner for the day.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representative Wilkey.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 7, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Representative Adkins moved that the Journal for February 7, 2007, be corrected to reflect that the vote taken to adopt **HR 73** was out of order and of no effect since prior to that vote being taken, the Resolution had been referred to Committee. Agreed.

Representative Cherry moved that the rules be suspended and that floor privileges be granted to Miss Kentucky, Rochelle Philips. Agreed.

Representative Bell moved the adoption of the following **Legislative Citation No. 13**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of the Family Resource Youth Services Coalition of Kentucky, Inc., supporters and advocates of the Family Resource Youth Services Centers which were established in the Kentucky Education Reform Act of 1990, and which have been affirmed through continuous funding in each budget since, for their efforts to help the families and children of Kentucky attain greater self-sufficiency and success. Inasmuch as the members of the Family Resource Youth Services Coalition of Kentucky have on this day sent representatives of their organization to express gratitude to the members of this honorable body for their commitment to the children of the Commonwealth as demonstrated by the continuous funding of the Centers since the passage of this landmark education reform; they are welcomed to the chambers of the Kentucky House of Representatives during the 2007 Regular Session of the Kentucky General Assembly. The members of this august body are delighted to join with Speaker Jody Richards in extending, on this auspicious occasion, sincere expressions of gratitude to each of the Family Resource Youth Services Centers throughout the Commonwealth for their vital contributions to the efforts being made in Kentucky to provide each child with a quality education. Done in Frankfort, Kentucky, this eighth day of February, in the year two thousand and seven.

Legislative Citation No. 13 was adopted without objection.

Representative Ford moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 16**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors an esteemed colleague and his wife, Russ and Carole Mobley, upon having celebrated their Golden Wedding Anniversary ~ Married January 27, 1957~ The celebration of fifty years of beloved companionship constitutes an exceptional marriage. This honorable body holds in high esteem the extraordinary abilities of this devoted couple to cultivate and nurture a loving family and cherished friendships. The proud parents of five children and their spouses--Greg Mobley and Page Kelley, Jeff and Diana Bain Mobley, Stephanie Woodie, Suzanne and Joel Bennett, and Joel and Mary Beth Edwards Mobley--and the devoted grandparents of thirteen wonderful grandchildren--Esther Maria Mobley, Gregory McDaniel Kelley, Thomas Page Mobley, Hunter Russell Mobley, Holden McKee Mobley, Campbell Anne Mobley, Eli Hampton Woodie, Abigail Lane Woodie, Hannah Carole Bennett, Micah Daniel Bennett, Lydia Faith Bennett, Maxwell Allen Mobley and Alexander James Mobley, these esteemed citizens are commended on this joyful occasion for having worked so earnestly on behalf of their beloved family, the citizens of the 51st House District and this great Commonwealth. Representative Danny Ford recognizes these rare and unique virtues in Representative Russ Mobley and Carole Mobley, and joins with the members of the Minority Caucus and the full membership of the Kentucky House of Representatives in wishing them many continued years of happiness and fulfillment. Done in Frankfort, Kentucky, this eighth day of February, in the year two thousand and seven.

Legislative Citation No. 16 was adopted without objection.

Representative Henley moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Henley moved the adoption of the following **Legislative Citation No. 8.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Representative and Mrs. J.R. Gray upon having celebrated their Golden Wedding Anniversary The celebration of fifty years of beloved companionship constitutes an exceptional marriage. Representative J.R. Gray, the son of the late James Rhyman and Mary Gray of Lamasco and Eddyville, and Yvonne Murray Gray, the daughter of Juanita Murray and the late Reese Murray of Woodson Chapel and Benton, were joined in holy matrimony on December 27, 1956, in Corinth Mississippi. Inasmuch as Representative Gray, who has served in the Kentucky House of Representatives from 1976 to 1988 and from 1995 to the present and is a retired business agent of the International Association of Machinists Union, and Mrs. Gray, his staunch supporter and cherished companion who is also retired from the International Association of Machinists Union, have spent much of their lives in service to others, the members of this honorable body hold in highest esteem the extraordinary abilities of this devoted couple, the loving parents of Randy Gray and his wife, Trish Gray and doting grandparents of Teresa Gray, to work for the betterment of others while cultivating and nurturing a loving family and cherished friendships. Representative Melvin B. Henley recognizes these rare and unique virtues in Representative and Mrs. Gray and joins with all here present in wishing them many continued years of well-deserved happiness. Done in Frankfort, Kentucky, this eighth day of February, in the year two thousand and seven.

Legislative Citation No. 8 was adopted without objection.

Introduction of Bills and Resolutions

HB 366, by Representatives Horlander, Stacy, Thompson, Crimm, Edmonds, Embry, Wayne, Rand, Hall, Riggs, Ford, Denham, Gooch, Sims, Keene, Butler, Westrom, Webb, Gray, Greer, Rasch, and Brinkman: AN ACT relating to industrial-loan corporations.

HB 367, by Representative Jenkins: AN ACT relating to the sale of horses.

HB 368, by Representative Fischer: AN ACT relating to interest on judgments.

HB 369, by Representative Nelson: AN ACT relating to the child support guidelines table.

HB 370, by Representatives Collins and Hall: AN ACT relating to temporary motor vehicle tags.

HB 371, by Representative Simpson: AN ACT relating to local insurance premium taxes and fees.

HB 372, by Representatives Santoro and Moore: AN ACT relating to building permits.

HB 373, by Representative Glenn: AN ACT relating to college student financial awareness.

HB 374, by Representative J. Lee: AN ACT relating to voting rights for persons with disabilities.

HB 375, by Representative Webb: AN ACT relating to local government.

HB 376, by Representative Henderson: AN ACT relating to insurance payments for firefighters permanently and totally disabled in the line of duty.

HB 377, by Representatives Greer, Butler, Vincent, Clark, Bell, Tilley, and Keene: AN ACT relating to health insurance coverage of air ambulance services.

HB 378, by Representative DeWeese: AN ACT relating to the timing of history and physical examinations.

HB 379, by Representative Marzian: AN ACT relating to reimbursement of registered nurse first assistants under worker's compensation.

HB 380, by Representative Dedman: AN ACT relating to high school athletics.

HB 381, by Representative Baugh: AN ACT relating to motor vehicles.

HB 382, by Representative Crimm: AN ACT relating to domestic relations and declaring an emergency.

HB 383, by Representatives DeWeese and Marzian: AN ACT relating to the diabetes research board.

HB 384, by Representative Kerr: AN ACT relating to property taxes.

HB 385, by Representatives Pasley, Hoffman, J. Lee. Rand, Wayne, Meeks, Marzian, Stein, Henley, Burch, Moberly, Riner, Sims, and Henderson: AN ACT relating to surface mining.

HB 386, by Representative Draud: AN ACT relating to librarians and libraries.

HB 387, by Representatives Owens and Meeks: AN ACT relating to elections.

HR 95, by Representatives Thompson and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist Timothy Adam Fulkerson.

HR 96, by Representative Simpson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lance Corporal Justin D. Sims.

HR 97, by Representative L. Belcher: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lance Corporal Thomas P. Echols.

HR 98, by Representative Tilley: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Corporal Windell Jeryd Simmons.

HR 99, by Representative J. Lee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First Class Christopher Neal White.

HR 100, by Representatives Adkins and Stacy: A RESOLUTION saluting Morehead State Public Radio, a 2006 recipient of one of the Governor's Awards in the Arts.

HR 101, by Representative Henderson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Garth D. Sizemore.

HR 102, by Representatives Siler and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant First Class Lance S. Cornett.

HR 103, by Representatives Crenshaw and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Robert William Ehney.

HR 104, by Representatives Combs, A. Smith, and Hall: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lance Corporal Jonathan Brett Thornsberry.

HR 105, by Representatives Dedman and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant First Class Charles Jason Jones.

HR 106, by Representatives Weston and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Captain Clayton L. Adamkavicius.

HCR 107, by Representative Pullin: A CONCURRENT RESOLUTION declaring the area of General Assembly committee rooms used for the seating of legislators to be off-limits for the duration of a committee meeting for all persons who are not legislators or staff, unless a specific person or persons are invited by a legislator into the restricted area.

HR 108, by Representatives Greer, Pullin, and Butler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Major Michael Lewis Mundell.

HR 109, by Representatives Dedman and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Master Sergeant Clinton Wayne Cubert.

HCR 110, by Representative L. Belcher: A CONCURRENT RESOLUTION urging the United States Congress to amend Title II of the Social Security Act to repeal the Government Pension Offset and Windfall Elimination Provisions.

HR 111, by Representatives Denham and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant John Edward Cooper.

HR 112, by Representative Stein: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joy Edwards Hembree.

HR 113, by Representative Stein: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. Raymond Frederick Betts.

HR 114, by Representative Stein: A RESOLUTION adjourning the House of Representatives in loving memory and honor of John A. Bell III.

HR 115, by Representatives Tilley and Dossett: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Glenn A. "Skippy" Wade.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 350**

Appropriations and Revenue: **HB 312, 321, 326, 327, 332, 347, 359, 360**

Health and Welfare: **HB 337, 345, 352, 362**

Judiciary: **HB 7, 309, 358, HCR 88, Impeachment Petition 07-11-06**

Local Government: **HB 355**

State Government: **HB 356, 361**

Transportation: **HB 351, HR 90, HJR 84**

House Floor: **HR 78, 80, 82, 83, 85, 87, 89, 92, 93, 94**

Report of Committees

The Committee on Committees has met and reports the following committee changes:

Remove the following member from:

Licensing and Occupations

Rep. Milward Dedman

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 6, 184, 185, 244, 262, 276, 312, 321, 326, 332, 359, 360**

Education: **HB 2, 306, 285, 100, 229, HCR 46**

Judiciary: **HB 82, 149**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 55, 66, 131, 132, 135**

Report of Committees

The Committee on Economic Development reported **HB 69** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 69, AN ACT relating to economic development and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.26-010 is amended to read as follows:

As used in this subchapter, unless the context clearly indicates otherwise:

(1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)(f)2., among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;

(4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(e) All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;

(7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs ***or resume operation in the event that a facility has been temporarily closed***;

(10) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity:

(a) Employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether ***acquired,*** owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority pursuant to KRS 154.26-080; or

(b) Having ***raw production of at least three (3)***[~~a base contract for annual delivery of at least four (4)~~] million tons of coal mined ***from the economic revitalization project facility***[~~within the Commonwealth~~] and employing a minimum of five hundred (500) persons engaged in coal mining and processing operations at facilities, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities on or adjacent to where coal mining and processing operations have been temporarily suspended or severely reduced, and which meets the standards promulgated by the authority under KRS 154.26-080;

(11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(12) "Inducements" means the Kentucky tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;

(13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(14) "Coal mining and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;

(15) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(16) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision;

(17) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and

(18) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401.

Section 2. Whereas the ability to invoke emergency measures is critical to the preservation and creation of jobs within the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming law.

The Committee on Natural Resources and Environment reported **HB 136, HB 137,** with Committee Substitute attached thereto, and **HB 186** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 136, AN ACT relating to the Kentucky Soil and Water Conservation Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.010 is amended to read as follows:

(1) "Board" means the board of supervisors of a conservation district;

(2) "Commission" means the Conservation Commission;

(3) "District" means a conservation district whenever used in KRS 262.010 through 262.660 or a watershed conservancy district whenever used in KRS 262.700 through 262.795;

(4) "Due notice" means notice published in accordance with the legal notice provisions of KRS Chapter 424;

(5) ***"Infrastructure" means the plant and assets required for maintaining a district office;***

(6) "Land occupier" or "occupier of land" includes any person other than the landowner who is in possession of any lands lying within the district, whether as lessee or otherwise;

(7)[~~(6)~~] "Landowner" or "owner of land" includes any person who holds legal or equitable title to the land within the district determined as follows:

- (a) By his, her, or their names appearing on the recorded deed to the land;
- (b) By title derived through a probated will or by the laws of descent and distribution under KRS Chapter 391;
- (c) Where a minor or person adjudged mentally disabled is the owner of land within the district, the guardian or conservator or whoever has the power of attorney shall have the right to vote for such landowner under the provisions of KRS Chapter 262;
- (d) Where the will has not been probated by the date of the referendum or election as provided in KRS Chapter 262, the executor of the deceased landowner shall have the right to vote for the devisee or devisees;
- (e) Where the land within the districts is held in trust, the trustee shall have the right to vote for the landowner under the provisions of KRS Chapter 262;
- (f) A landowner shall be entitled to but one (1) vote whenever he is given the right to vote under KRS Chapter 262 regardless of the number of tracts or parcels of land which he owns either wholly or in part, within the district;
- (g) Where a trustee, executor, guardian, conservator or other person with authority to vote for a landowner exercises such duty in relation to two (2) or more estates or tracts of land, within a district, such person shall have the right to vote separately for each such landowner which he represents within the district;
- (h) In the case of a dispute as to whether or not a person has the right to vote in an election or referendum under the provisions of KRS Chapter 262, the person seeking such right must provide to the satisfaction of the polling superintendent that he has the right to vote under this section.

(8)[~~(7)~~] "Supervisor" means one of the members of the governing body of a conservation district.

Section 2. KRS 262.620 is amended to read as follows:

The Division of Conservation shall retain title to each piece of heavy or specialized [~~machinery or~~]equipment ***or any infrastructure***[~~so~~] purchased and made available to any soil and water conservation district until such time as the soil and water conservation districts fully amortize the commission's investment in ***the***[~~such machinery or~~] equipment ***or the infrastructure. If the soil and water conservation district purchases infrastructure with use of funds made available by the Division of Conservation for that purpose, then the Division of Conservation shall be listed on the deed to the property jointly with the district***. After the commission's investment in ***the***[~~such machinery or~~] equipment ***or infrastructure*** has been fully amortized, it is authorized and empowered to transfer the title thereto to the district. ***If the district has purchased infrastructure with funds made available by the Division of Conservation, the district shall consult with the division prior to the dispossession of the property.***

Section 3. KRS 262.630 is amended to read as follows:

(1) Each soil and water conservation district which receives or uses the[~~ machinery or~~] equipment referred to in KRS 262.610 shall maintain its public records to show for each piece of[~~ machinery or~~] equipment: (1) the hours same has worked on each job in each district; (2) the amounts collected from each job in each district; (3) the expense of repairing, moving, manning and other usual costs of operation, and (4) the amount paid by each district for the purpose of amortizing the commission's investment in ***the***[~~such machinery or~~] equipment.

(2) Each soil and water conservation district which leases or otherwise obtains a right of use of the infrastructure with the support of the Division of Conservation pursuant to KRS 262.610 shall maintain in public records a copy of the lease or other contract which provides the district a right of use of the infrastructure; and

(a) In the case of a purchase, the amount paid by each district for the purpose of amortizing the commission's investment in the infrastructure; or

(b) In the case of lease without right of purchase or some other contractual arrangement or agreement, the payments made to the Division of Conservation for the right of use of the infrastructure.

(3) Each of ***the***[~~such~~] soil and water conservation districts shall send a duplicate copy of ***the***[~~such~~] records to the commission, who shall retain same in its files for public inspection.

(4) In addition thereto, the commission shall at all times maintain an account showing each piece of[~~ machinery or~~] equipment, the title to which is vested in it, ***and any infrastructure, the title of which may be vested solely in the commission or jointly with the district, and*** the amount paid thereon by any soil and water conservation district, and the amount remaining to be amortized.

Section 4. KRS 262.610 is amended to read as follows:

(1) The Soil and Water Conservation Commission as referred to in KRS Chapter 146, subject to the supervision of the commissioner for natural resources, to the restrictions provided in KRS 262.610 to 262.660, and to the requirements of KRS Chapters 42 and 45A, is hereby authorized to acquire and to make available, or to assist in acquiring or making available to soil and water conservation districts, heavy or specialized[~~ machinery or~~] equipment ***or infrastructure*** which an individual district cannot itself economically obtain.

(2) When the commission acquires or makes available to any district the[~~ machinery or~~] equipment ***or infrastructure*** above referred to, it shall require said district to fully amortize, in the form of rentals ***or payments,*** to the Division of Conservation, as referred to in KRS Chapter 146, any amount so expended by the commission for such assistance. The amount and method of amortization for each piece of heavy[~~ or specialized machinery or~~] equipment ***or infrastructure*** shall be determined by the commission, subject to approval of the commissioner of natural resources***. The amount and method of amoritization for each piece of heavy or specialized equipment shall be determined***[~~,~~] on the basis of a rental to be charged by the district to the user of[~~ such machinery or~~] equipment sufficient (a) to fully amortize to the division the capital outlay for the machinery itself over the period of its reasonably anticipated full usefulness; (b) to cover the cost of operation, maintenance and repairs; (c) to pay the usual cost of providing an operator; (d) to compensate the district for the usual costs of transportation from one job to another.

(3) In giving effect to all of the foregoing, the commission shall estimate the amount of time such equipment would ordinarily be idle.

Section 5. KRS 262.640 is amended to read as follows:

The amount paid by any[~~ such~~] district to the division for amortization ***of a loan or for payment on a lease***[~~purposes~~] shall be made monthly[~~ when the machinery is in use~~]. This amount shall be credited to a revolving fund and the costs of any new[~~ machinery or~~] equipment ***or infrastructure*** shall be charged to the same account. Neither the appropriation herein made nor the revolving fund shall be used for any purpose other than to make available to soil and water conservation districts the[~~ machinery and~~] equipment ***or infrastructure*** of the type referred to in KRS 262.610.

Section 6. KRS 262.650 is amended to read as follows:

Any two (2) or more soil and water conservation districts may combine with each other for the purpose of obtaining and using the specialized[~~ machinery or~~] equipment ***or infrastructure*** referred to in KRS 262.610, upon the terms and conditions set forth in KRS 262.610 to 262.660.

Section 7. KRS 262.748 is amended to read as follows:

(1) Upon determination by the board of directors of a watershed conservancy district that the improvement, continuing operation, or maintenance of a watershed project is necessary, the board of directors may adopt a resolution which shall set out: (a) a list of the benefited lands located in the flood plain, as determined by the board of directors, giving the acreage of such lands and the names of the owners thereof as defined by KRS 262.010***(7)***[~~(6)~~] with a classification of such lands or parts thereof into classes in order that assessments may be made according to direct benefits, and (b) the annual assessments to be levied upon the lands set out in the resolution on the basis of a certain amount per acre according to benefits received, not to exceed in any one year a sum per acre specified in the resolution.

(2) The board of directors shall cause due notice of the resolution to be given to all the owners of benefited lands, as determined by the board. Said notice shall set out the time and place of a meeting of the board of directors of the watershed conservancy district at which owners of benefited lands who may be liable for the annual assessments may be heard.

(3) At the hearing upon the resolution, owners of benefited lands may voice their views concerning the proposal as to whether it should be undertaken, and the scope thereof, or the degree of benefit received by their lands. The board shall prepare a record summarizing the proceedings. If the board of directors determines as a result of the hearing that the proposal should be carried out as planned, it may make such changes or revisions in the resolution as it deems proper and shall give due

notice of an election to be held at which benefited landowners may vote on the question of annual special assessments to defray the cost. The notice of the election shall include the text of the resolution of the board in its final form. The board of directors may give due notice as provided in KRS 262.010(4).

(4) The board of directors shall prepare the following question to be presented to the voters: "Should the assessment for improvement, continuing operation, or maintenance proposed by resolution of the........ Watershed Conservancy District be adopted?" Voters shall be instructed to vote "yes" or "no" on the proposition. Only owners of benefited land as set out in the resolution shall be eligible to vote. The board of directors may provide for a meeting of the landowners at which the vote may be cast, in which case qualified voters may vote by absentee vote. The board shall appoint a polling superintendent and other necessary election officers, giving representation to the opponents of the question as well as to proponents.

(5) If a majority of those voting upon the proposition favor the assessment the board shall give due notice of the vote. Any owner of property to be benefited by the project may, within forty (40) days after publication of such notice, file an action in the Circuit Court of the county in which his lands are located seeking relief by declaratory judgment or injunction. If a suit is filed, the county attorney shall represent the board of directors in upholding the validity of the proposed assessment. After the lapse of time specified herein all actions by owners of properties to be benefited shall be forever barred.

(6) If no suit is filed and no injunction issued within the time allowed in subsection (5) of this section, the board of directors shall levy annual assessments effective only upon the benefited properties and based on the acreage thereof. The annual assessment shall be made by the board of directors at the same time and in the same manner as provided in KRS 262.765 for taxes generally and shall be collected as provided in KRS 262.770. The assessments shall constitute liens against the land benefited and shall attach to the land, taking precedence over all other liens except state, county and municipal taxes and prior improvement assessments.

Section 8. KRS 262.778 is amended to read as follows:

(1) Upon determination by the board of directors of a watershed conservancy district that a watershed project is necessary, and upon approval of the plans for same by the board of supervisors, the board of directors shall adopt a resolution which shall set out:

(a) A description of the project in general terms;

(b) A list of the benefited lands located in the flood plain, as determined by the board of directors, giving the acreage of such lands and the names of the owners thereof as defined by KRS 262.010*(7)*[~~(6)~~] with a classification of such lands or parts thereof into classes in order that assessments may be made according to direct benefits;

(c) The total cost of the project; and

(d) The fact that the cost shall be met by a bond issue payable solely from annual assessments to be levied upon the lands set out in the resolution on the basis of a certain amount per acre according to benefits received, not to exceed in any one year a sum per acre specified in the resolution, with the annual assessments to extend over a period of years specified in the resolution not to exceed thirty (30) years.

(2) The board of directors shall cause due notice of the resolution to be given to all the owners of benefited lands, as determined by the board. Said notice shall set out the time and place of a meeting of the board of directors of the watershed conservancy district at which owners of benefited lands who may be liable for the annual assessments may be heard.

(3) At the hearing upon the resolution, owners of benefited lands may voice their views concerning the proposed project as to whether said project should be undertaken, and the scope thereof, or the propriety of placing their lands in the project area or the degree of benefit received by their lands. The board shall prepare a record summarizing the proceedings. If the board of directors determines as a result of the hearing that the project should be carried out as planned, it may make such changes or revisions in the resolution as it deems proper and shall give due notice of an election to be held at which benefited landowners may vote on the question of annual special assessments to defray the cost of the project. The notice of the election shall include the text of the resolution of the board in its final form. The board of directors may give due notice as provided in KRS 262.010(4).

(4) The board of directors shall prepare to be presented to the voters the question: "Should the assessment proposed by resolution of the .... Watershed Conservancy District be adopted?". Voters shall be instructed to vote "yes" or "no." Only owners of benefited land as set out in the resolution shall be eligible to vote. The board of directors may provide for a meeting of the landowners at which the vote may be cast, in which case qualified voters may vote by absentee vote. The board shall appoint a polling superintendent and other necessary election officers, giving representation to the opponents of the question as well as to proponents.

(5) If a majority of those voting upon the proposition favor the assessment, the board shall give due notice of the vote and the fact that bonds will forthwith be issued payable from special assessments. Any owner of property to be benefited by the project may, within forty (40) days after publication of such notice, file an action in the Circuit Court of the county in which his lands are located seeking relief by declaratory judgment or injunction. If a suit is filed, the county attorney should represent the board of directors in upholding the validity of the proposed bond issue. After the lapse of time specified herein, all actions by owners of properties to be benefited shall be forever barred.

(6) If no suit is filed and no injunction issued within the time allowed in subsection (5) of this section, the board of directors

shall by resolution authorize the issuance of bonds designated "watershed project assessment bonds," determining the principal amount thereof and establishing the denominations and maturity dates thereof and shall levy an annual assessment effective only upon the benefited properties and based on the acreage thereof. The annual rate of such assessments shall be fixed when other taxes of the district are levied and shall be sufficient in each year to provide for the payment of such bonds and interest coupons as they mature and sufficient to provide a fund equal to twenty percent (20%) of the average annual principal and interest requirements, the same to constitute a "debt service reserve" as a precaution against possible default by failure to collect annual levies. The bonds shall state on their face that they do not constitute a debt of the district but are payable solely from collection of special assessments made upon benefited lands lying in the watershed conservancy district.

HB 137, AN ACT relating to petroleum storage tanks and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-142 is amended to read as follows:

(1) To be eligible to participate in the fund, the owner of any petroleum storage tank containing motor fuels installed and placed in operation after July 15, 2004, shall register the petroleum storage tank with the cabinet as required by KRS 224.60-105 prior to applying for participation in the financial responsibility account.

(2) The owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, ***2008***[~~2006~~]. Owners or operators may submit affidavits and applications relevant to current petroleum storage tank accounts through July 15, ***2008***[~~2006~~].

Section 2. Whereas owners and operators have been prevented from registering petroleum storage tanks since July 15, 2006, and this has resulted in a backlog of registrations and, if continued, will have both immediate and long-tern negative effects on storage tank owners and operators, and on the environment, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 137** is as follows:

HB 137, AN ACT relating to petroleum storage tanks and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-142 is amended to read as follows:

(1) To be eligible to participate in the fund, the owner of any petroleum storage tank containing motor fuels installed and placed in operation after July 15, 2004, shall register the petroleum storage tank with the cabinet as required by KRS 224.60-105 prior to applying for participation in the financial responsibility account.

(2) The owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, ***2010***[~~2006~~]. Owners or operators may submit affidavits and applications relevant to current petroleum storage tank accounts through July 15, ***2010***[~~2006~~].

Section 2. Whereas owners and operators have been prevented from registering petroleum storage tanks since July 15, 2006, and this has resulted in a backlog of registrations and, if continued, will have both immediate and long-tern negative effects on storage tank owners and operators, and on the environment, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 186, AN ACT relating to certification of miners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

In lieu of an examination prescribed by law or regulation, the board may enter into a reciprocal agreement with another state regarding the certification of miners. The board may, pursuant to a reciprocal agreement, issue to any person holding a certificate issued by another state a certificate permitting him or her to perform similar tasks in the Commonwealth if:

(1) The board finds that the requirements for certification in the other state are substantially equivalent to those of Kentucky;

(2) The person passes only the applicable part of the examination with regard to Kentucky law which is uniquely different from the other state;

(3) The person has submitted proof, in accordance with KRS 351.182, that he or she is drug and alcohol free;

(4) The person's retraining is sufficient to meet Kentucky requirements; and

(5) The person's certification in Kentucky or in any other state has not been suspended, revoked, or probated.

The Committee on Tourism Development and Energy reported **HB 5,** with Committee Substitute attached thereto, **HB 102,** with Committee Substitute attached thereto, **HB 123,** with Committee Amendment attached thereto, **HCR 12,** with Committee Substitute and Committee Amendment attached thereto, **HJR 23** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to energy efficiency measures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) To improve energy efficiency throughout state government, the Finance and Administration Cabinet is encouraged to:

(a) Utilize the United States Environmental Protection Agency's national energy performance system (ENERGY STAR) to:

1. Develop energy efficiency standards for new construction designs for proposed state facilities; and

2. Measure the energy efficiency of existing state facilities; and

(b) Incorporate ENERGY STAR products in state agency procurements, where possible.

(2) The Finance and Administration Cabinet shall develop a strategy to:

(a) Replace at least fifty percent (50%) of the state-owned passenger vehicles and light-duty trucks, overseen and administered by the Division of Fleet Management as of July 1, 2007, with:

1. New qualified hybrid motor vehicles as defined in 26 U.S.C. sec. 30B;

2. New advanced lean burn technology motor vehicles as defined in 26 U.S.C. sec. 30B;

3. New qualified fuel cell motor vehicles as defined in 26 U.S.C. sec. 30B; or

4. New qualified alternative fuel motor vehicles as defined in 26 U.S.C. sec. 30B; and

(b) Increase the use of ethanol, biodiesel, and other alternate transportation fuels as defined in KRS 152.715 to reduce state government's dependence on petroleum-based transportation fuels, where possible.

(3) On or before December 1, 2007, and every December 1 thereafter, the Finance and Administration Cabinet shall report to the Legislative Research Commission:

(a) Any improvements in energy efficiency planned or realized through the use of ENERGY STAR;

(b) The strategy for transitioning to motor vehicles outlined in subsection (2) of this section, including a life-cycle cost comparison, and a projected timetable to replace motor vehicles in the state motor pool as provided in subsection (2) of this section; and

(c) The strategy for increased use of ethanol, biodiesel, and alternate transportation fuels, including the targeted amount and the dates by which these targets shall be achieved.

SECTION 2. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 6 of this Act:

(1) "Alternative fuel or renewable energy facility" means a new facility constructed in Kentucky on or after July 1, 2008, that:

(a) Produces alternate transportation fuels as defined in KRS 152.715;

(b) Produces synthetic natural gas as defined in KRS 152.715;

(c) Generates chemical feedstocks, or liquid fuels, including but not limited to methane, methanol, or nitrogen fertilizer, from coal through a gasification process and may generate electricity as a by-product; or

(d) Utilizes solar power, wind power, biomass resources as defined in KRS 152.715, or hydropower as renewable fuel sources to generate electricity in excess of ten (10) megawatts; and

(2) "Energy efficiency project" means a project undertaken by a person engaged in manufacturing whereby the person purchases machinery or equipment that reduces the consumption of energy or energy-producing fuels used in the manufacturing process by at least fifteen percent (15%) per year measured in megawatts, gallons, or other measurable units of energy, while maintaining or increasing the number of units produced for that same period. For purposes of this subsection, "machinery or equipment" shall not include:

(a) Windows, lighting, or other improvements to buildings; or

(b) Repair and replacement parts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding all other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale, rental, storage, use, or other consumption of tangible personal property used to construct, repair, renovate, or upgrade an alternative fuel or renewable energy facility as defined in Section 2 of this Act, including building materials, machinery, equipment, and repair and replacement parts, if the alternative fuel or renewable energy facility has been previously approved by the department under Section 4 of this Act.

(2) This section shall not apply to:

- *(a) Sales or purchases made prior to the approval of the alternative fuel or renewable energy facility by the department; or*
- *(b) Sales or purchases made after December 31, 2020.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Any person establishing a new an alternative fuel or renewable energy facility in Kentucky may apply for an exemption certificate under which purchases related to the sale, rental, storage, use, or other consumption of tangible personal property used to construct, repair, renovate, or upgrade an alternative fuel or renewable energy facility shall be exempt from taxes imposed by this chapter.

(2) An application for an alternative fuel or renewable energy facility exemption certificate shall be filed with the department and shall contain:

- *(a) Plans and specifications for the facility;*
- *(b) A list of the materials to be incorporated into the construction of the facility;*
- *(c) A descriptive list of all machinery and equipment to be installed at the facility;*
- *(d) An estimate of the tax exemption which the company expects to claim over the life of the exemption; and*
- *(e) Any other information required by the department for the proper administration of this section.*

(3) Upon receipt of the application, the department shall notify the Office of Energy Policy in writing that an application for an alternative fuel or renewable energy facility exemption has been received.

(4) Prior to granting approval, the department shall consult with the Office of Energy Policy to determine if the proposed facility meets the definition of an alternative fuel or renewable energy facility. The department shall not grant an approval for tax exemption under Section 3 of this Act before July 1, 2008.

(5) If the alternative fuel or renewable energy facility for which an exemption certificate has been issued ceases to be used for the purpose for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the department, and the department shall revoke the certificate of exemption immediately.

(6) (a) On or before July 30, 2009, and every July 30 thereafter, the holder of the alternative fuel or renewable energy facility exemption certificate shall report to the department, on a form provided by the department, the amount of the exemption claimed in the previous twelve (12) months.

- *(b) If the holder of the certificate of exemption fails to file the required annual report on or before the due date, the department shall give written notice, by certified mail, to the certificate holder that the certificate of exemption shall be revoked within sixty (60) days from the receipt of the notice, unless the holder of the certificate provides sufficient written documentation demonstrating compliance with the requirements of this section.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 139.770 and 134.580(3), a person engaged in manufacturing and located in this state shall be entitled to a refund equal to the amount of Kentucky sales or use tax paid on the purchase of machinery or equipment purchased on or after July 1, 2008, for an energy efficiency project if the person:

- *(a) Files an application for approval with the department prior to purchasing the machinery or equipment; and*
- *(b) Files an application for refund with supporting documentation within sixty (60) days from the time the tax was paid.*

(2) The burden of proof that the purchase of the machinery or equipment resulted in a decrease in the consumption of energy or energy-producing fuel is upon the purchaser.

(3) Interest shall not be allowed or paid on any refund made under this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 131.190, on or before December 1, 2008, and every December 1 thereafter, the department shall report to the Legislative Research Commission:

(1) The number of applications approved for an alternative fuel or renewable energy facility, the name of the applicant, a description of the facility, and, based upon the applications filed, an estimate of the tax exemption each company will claim;

(2) The number of alternative fuel or renewable energy facilities claiming exemptions, the names of persons claiming the exemption, and the amount of the exemption each person has claimed;

(3) The names of revoked certificate holders and number of certificates of tax exemption revoked under Section 4 of this Act;

(4) The names of applicants and number of applications received for approval of a sales or use tax refund for purchases for an energy efficiency project under Section 5 of this Act; and

(5) The names and total number of persons who have filed for a sales or use tax refund for purchases for an energy

efficient project and the amount of the refund each person has claimed.

Section 7. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant ***or an alternative fuel or renewable energy facility as defined in Section 2 of this Act***;

(b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, 141.040, or 141.0401; and

(c) ***1.*** Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity***; or***

2. Purchases or severs and uses coal that is subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the use in an alternative fuel or renewable energy facility.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased ***or severed and used*** that is subject to tax under KRS 143.020 and that is used to generate electric power ***or used as fuel for an alternative fuel or renewable energy facility***.

(3) Incentive tons are calculated as the tons of coal purchased ***or severed and used*** in the current year for which coal severance tax was paid minus the tons of coal purchased ***or severed*** and used during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the Department of Revenue. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased ***or severed and used*** in the base year and the tons of coal purchased ***or severed and used*** in the year for which the credit is being claimed. The Department of Revenue shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Department of Revenue under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) The credit shall first be applied against both the taxes imposed by KRS 141.020 or 141.040 and the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205;

(b) The credit shall next be applied to the taxes imposed by KRS 136.070; and

(c) Any remaining credit shall be applied against the taxes imposed by KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The Department of Revenue shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 8. KRS 141.0406 is amended to read as follows:

Except in the case of an alternative fuel or renewable energy facility as defined in Section 2 of this Act, the Coal Incentive Credit authorized under KRS 141.0405 shall be allowed for ten (10) consecutive years beginning on July 15, 2001. ***In the case of an alternative fuel or renewable energy facility, the Coal Incentive Credit shall be allowed for tax periods beginning after December 31, 2008, and ending before January 1, 2021.*** Continuation of the credit authorized under this section shall require reauthorization by the General Assembly.

Section 9. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

- (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
- (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
  - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
    - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
  - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation, a partnership, and a limited partnership if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;
- (l) A corporation and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership, limited partnership, and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
- (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health

insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;

(17) ***(a)*** "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including***:***

1. The processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; ***and***~~[however,]~~

2. The processing and conversion of coal and other minerals used by an approved alternative fuel or renewable energy facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process;

(b) "Manufacturing" shall not include mining***;***~~[,]~~ coal or mineral processing, ***except as provided in subparagraph 2. of paragraph (a) this subsection;*** or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;

(23) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(24) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 10. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Affiliate" has the same meaning as in KRS 154.22-010;

(2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(3) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(5) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within

the Department of Workforce Investment within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Economic development project" or "project" means:

(a) A new or expanded service or technology activity conducted at a new or expanded site by:

1. An approved company; or

2. An approved company and its affiliate or affiliates; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(9) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(10) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(11) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(12) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(13) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(14) "Local government" means a city, county, or urban-county government;

(15) ***(a)*** "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include***;***

1. Any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; ***and***[~~ however,~~]

2. The processing and conversion of coal and other minerals used by an approved alternative fuel or renewable energy facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process;

(b) "Manufacturing" shall not include mining***;***[~~,~~] the extraction of minerals or coal***;***[~~,~~] or processing of these resources***, except as provided in subparagraph 2. of paragraph (a) of this subsection***;

(16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated

organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(18) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(20) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(21) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

(22) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(23) (a) “Service or technology” means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

(24) “Start-up costs” means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;

(25) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project;

(26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 11. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" has the same meaning as in KRS 154.22-010;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) *(a)* "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including*:*

1. The processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; *and*~~[however,]~~

2. The processing and conversion of coal and other minerals used by an approved alternative fuel or renewable energy facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process;

(b) "Manufacturing" shall not include mining*;*~~[,]~~ coal or mineral processing*; except as provided in subparagraph 2. of paragraph (a) of this subsection*, or extraction of minerals;

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(18) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and

(19) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401.

SECTION 12. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

From a list of potential sites developed by the Office of Energy Policy (OEP) and suitable for development of alternative fuel or renewable energy facilities as defined in Section 2 of this Act, the OEP may expend state funds for preliminary environmental and baseline assessments, inventories, and other activities on or for the potential sites in furtherance of environmental or other permitting require for the development of a facility.

Section 13. This Act is in accordance with the findings and determinations of the General Assembly set out in KRS 152.710. The purposes of this Act are to ensure that the Commonwealth is in the forefront of national efforts to achieve energy independence through reducing the state's reliance on imported oil and increasing the domestic production and use of alternate transportation fuels; synthetic natural gas; fuels such as methane, methanol, or nitrogen fertilizer produced through coal gasification; and electricity generated with solar power, wind power, biomass resources, or hydropower.

Section 14. Sections 7 to 11 shall apply to tax years beginning after December 31, 2008.

The Committee Substitute to **HB 5** is as follows:

HB 5, AN ACT relating to energy efficiency measures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) To improve energy efficiency throughout state government, the Finance and Administration Cabinet is encouraged to:

(a) Utilize the United States Environmental Protection Agency's national energy performance system (ENERGY STAR) to:

1. Develop energy efficiency standards for new construction designs for proposed state facilities; and

2. Measure the energy efficiency of existing state facilities; and

(b) Incorporate ENERGY STAR products in state agency procurements, where possible.

(2) The Finance and Administration Cabinet shall develop a strategy to:

(a) Replace at least fifty percent (50%) of the state-owned passenger vehicles and light-duty trucks, overseen and administered by the Division of Fleet Management as of July 1, 2007, with:

1. New qualified hybrid motor vehicles as defined in 26 U.S.C. sec. 30B;

2. New advanced lean burn technology motor vehicles as defined in 26 U.S.C. sec. 30B;

3. New qualified fuel cell motor vehicles as defined in 26 U.S.C. sec. 30B; or

4. New qualified alternative fuel motor vehicles as defined in 26 U.S.C. sec. 30B; and

(b) Increase the use of ethanol, biodiesel, and other alternate transportation fuels as defined in KRS 152.715 to reduce state government's dependence on petroleum-based transportation fuels, where possible.

(3) On or before December 1, 2007, and every December 1 thereafter, the Finance and Administration Cabinet shall report to the Legislative Research Commission:

(a) Any improvements in energy efficiency planned or realized through the use of ENERGY STAR;

(b) The strategy for transitioning to motor vehicles outlined in subsection (2) of this section, including a life-cycle cost comparison, and a projected timetable to replace motor vehicles in the state motor pool as provided in subsection (2) of this section; and

(c) The strategy for increased use of ethanol, biodiesel, and alternate transportation fuels, including the targeted amount and the dates by which these targets shall be achieved.

SECTION 2. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 6 of this Act:

(1) "Alternative fuel or renewable energy facility" means a facility constructed in Kentucky on or after July 1, 2008, that:

(a) Produces alternate transportation fuels as defined in KRS 152.715;

(b) Produces synthetic natural gas as defined in KRS 152.715;

(c) Generates chemical feedstocks, or liquid fuels, including but not limited to methane, methanol, or nitrogen fertilizer, from coal through a gasification process and may generate electricity as a by-product; or

(d) Utilizes solar power, wind power, biomass resources as defined in KRS 152.715, or hydropower as renewable fuel sources to generate electricity in excess of ten (10) megawatts; and

(2) "Energy efficiency project" means a project undertaken by a person engaged in manufacturing whereby the person purchases machinery or equipment that reduces the consumption of energy or energy-producing fuels used in the manufacturing process by at least fifteen percent (15%) per year measured in megawatts, gallons, or other measurable units of energy, while maintaining or increasing the number of units produced for that same period. For purposes of this subsection, "machinery or equipment" shall not include:

(a) Windows, lighting, or other improvements to buildings; or

(b) Repair and replacement parts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding all other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale, rental, storage, use, or other consumption of tangible personal property used to construct, repair, renovate, or upgrade an alternative fuel or renewable energy facility as defined in Section 2 of this Act, including building materials, machinery, equipment, and repair and replacement parts, if the alternative fuel or renewable energy facility has been previously approved by the department under Section 4 of this Act.

(2) This section shall not apply to:

(a) Sales or purchases made prior to the approval of the alternative fuel or renewable energy facility by the department; or

(b) Sales or purchases made after December 31, 2020.

SECTION 4. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Any person establishing or operating an alternative fuel or renewable energy facility in Kentucky may apply for an exemption certificate under which purchases related to the sale, rental, storage, use, or other consumption of tangible personal property used to construct, repair, renovate, or upgrade an alternative fuel or renewable energy facility shall be exempt from taxes imposed by this chapter.

(2) An application for an alternative fuel or renewable energy facility exemption certificate shall be filed with the department and shall contain:

(a) Plans and specifications for the facility;

(b) A list of the materials to be incorporated into the construction of the facility;

(c) A descriptive list of all machinery and equipment to be installed at the facility;

(d) An estimate of the tax exemption which the company expects to claim over the life of the exemption; and

(e) Any other information required by the department for the proper administration of this section.

(3) Upon receipt of the application, the department shall notify the Office of Energy Policy in writing that an application for an alternative fuel or renewable energy facility exemption has been received.

(4) Prior to granting approval, the department shall consult with the Office of Energy Policy to determine if the proposed facility meets the definition of an alternative fuel or renewable energy facility. The department shall not grant an approval for tax exemption under Section 3 of this Act before July 1, 2008.

(5) If the alternative fuel or renewable energy facility for which an exemption certificate has been issued ceases to be used for the purpose for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the department, and the department shall revoke the certificate of exemption immediately.

(6) (a) On or before July 30, 2009, and every July 30 thereafter, the holder of the alternative fuel or renewable energy

facility exemption certificate shall report to the department, on a form provided by the department, the amount of the exemption claimed in the previous twelve (12) months.

(b) If the holder of the certificate of exemption fails to file the required annual report on or before the due date, the department shall give written notice, by certified mail, to the certificate holder that the certificate of exemption shall be revoked within sixty (60) days from the receipt of the notice, unless the holder of the certificate provides sufficient written documentation demonstrating compliance with the requirements of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 139.770 and 134.580(3), a person engaged in manufacturing and located in this state shall be entitled to a refund equal to the amount of Kentucky sales or use tax paid on the purchase of machinery or equipment purchased on or after July 1, 2008, for an energy efficiency project if the person:

(a) Files an application for approval with the department prior to purchasing the machinery or equipment; and

(b) Files an application for refund with supporting documentation within sixty (60) days from the time the tax was paid.

(2) The burden of proof that the purchase of the machinery or equipment resulted in a decrease in the consumption of energy or energy-producing fuel is upon the purchaser.

(3) Interest shall not be allowed or paid on any refund made under this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 131.190, on or before December 1, 2008, and every December 1 thereafter, the department shall report to the Legislative Research Commission:

(1) The number of applications approved for an alternative fuel or renewable energy facility, the name of the applicant, a description of the facility, and, based upon the applications filed, an estimate of the tax exemption each company will claim;

(2) The number of alternative fuel or renewable energy facilities claiming exemptions, the names of persons claiming the exemption, and the amount of the exemption each person has claimed;

(3) The names of revoked certificate holders and number of certificates of tax exemption revoked under Section 4 of this Act;

(4) The names of applicants and number of applications received for approval of a sales or use tax refund for purchases for an energy efficiency project under Section 5 of this Act; and

(5) The names and total number of persons who have filed for a sales or use tax refund for purchases for an energy efficient project and the amount of the refund each person has claimed.

Section 7. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant ***or an alternative fuel or renewable energy facility as defined in Section 2 of this Act***;

(b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, 141.040, or 141.0401; and

(c) ***1.*** Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity***; or***

2. Purchases or severs and uses coal that is subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the use in an alternative fuel or renewable energy facility.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased ***or severed and used*** that is subject to tax under KRS 143.020 and that is used to generate electric power ***or used as fuel for an alternative fuel or renewable energy facility***.

(3) Incentive tons are calculated as the tons of coal purchased ***or severed and used*** in the current year for which coal severance tax was paid minus the tons of coal purchased ***or severed*** and used during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall

file a coal incentive credit claim on forms prescribed by the Department of Revenue. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased ***or severed and used*** in the base year and the tons of coal purchased ***or severed and used*** in the year for which the credit is being claimed. The Department of Revenue shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Department of Revenue under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) The credit shall first be applied against both the taxes imposed by KRS 141.020 or 141.040 and the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205;

(b) The credit shall next be applied to the taxes imposed by KRS 136.070; and

(c) Any remaining credit shall be applied against the taxes imposed by KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The Department of Revenue shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 8. KRS 141.0406 is amended to read as follows:

Except in the case of an alternative fuel or renewable energy facility as defined in Section 2 of this Act, the Coal Incentive Credit authorized under KRS 141.0405 shall be allowed for ten (10) consecutive years beginning on July 15, 2001. ***In the case of an alternative fuel or renewable energy facility, the Coal Incentive Credit shall be allowed for tax periods beginning after December 31, 2008, and ending before January 1, 2021.*** Continuation of the credit authorized under this section shall require reauthorization by the General Assembly.

Section 9. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation, a partnership, and a limited partnership if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, limited partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;

(17) ***(a)*** "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including***:***

1. The processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; ***and***[~~ however,~~]

2. The processing and conversion of coal and other minerals used by an approved alternative fuel or renewable energy facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process;

(b) "Manufacturing" shall not include mining***;***[~~,~~] coal or mineral processing, ***except as provided in subparagraph 2. of paragraph (a) this subsection;*** or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;

(23) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(24) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 10. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Affiliate" has the same meaning as in KRS 154.22-010;

(2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(3) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(5) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Economic development project" or "project" means:

(a) A new or expanded service or technology activity conducted at a new or expanded site by:

1. An approved company; or

2. An approved company and its affiliate or affiliates; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other

surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(9) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(10) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(11) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(12) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(13) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(14) "Local government" means a city, county, or urban-county government;

(15) ***(a)*** "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include***:***

1. Any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; ***and***[~~ however,~~]

2. The processing and conversion of coal and other minerals used by an approved alternative fuel or renewable energy facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process;

(b) "Manufacturing" shall not include mining***;***[~~,~~] the extraction of minerals or coal***;***[~~,~~] or processing of these resources***,*** ***except as provided in subparagraph 2. of paragraph (a) of this subsection***;

(16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(18) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(20) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(21) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

(22) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(23) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

(24) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;

(25) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project;

(26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 11. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" has the same meaning as in KRS 154.22-010;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) ***(a)*** "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including***:***

1. The processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; ***and***[~~ however,~~]

2. The processing and conversion of coal and other minerals used by an approved alternative fuel or renewable energy facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process;

(b) "Manufacturing" shall not include mining***;***[~~,~~] coal or mineral processing***; except as provided in subparagraph 2. of paragraph (a) of this subsection***, or extraction of minerals;

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(18) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and

(19) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401.

SECTION 12. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

From a list of potential sites developed by the Office of Energy Policy (OEP) and suitable for development of alternative fuel or renewable energy facilities as defined in Section 2 of this Act, the OEP may expend state funds for preliminary environmental and baseline assessments, inventories, and other activities on or for the potential sites in furtherance of environmental or other permitting required for the development of a facility.

Section 13. This Act is in accordance with the findings and determinations of the General Assembly set out in KRS 152.710. The purposes of this Act are to ensure that the Commonwealth is in the forefront of national efforts to achieve energy independence through reducing the state's reliance on imported oil and increasing the domestic production and use of alternate transportation fuels; synthetic natural gas; fuels such as methane, methanol, or nitrogen fertilizer produced through coal gasification; and electricity generated with solar power, wind power, biomass resources, or hydropower.

Section 14. Sections 7 to 11 shall apply to tax years beginning after December 31, 2008.

HB 102, AN ACT relating to the Kentucky Gas Pipeline Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.750 is amended to read as follows:

As used in KRS 353.750 to 353.776, unless the context requires otherwise:

(1) "Agreement" means a written contract between the authority and any person or persons, firm, corporation, local government, or public entity providing for or relating to the financing of the construction, reconstruction, improvement, or repair of one (1) or more projects of the authority;

(2) "Authority" means the Kentucky Gas Pipeline Authority created by KRS 353.752;

(3) "Bonds" mean revenue bonds, notes, or other obligations issued under the provisions of KRS 353.756, 353.758, or 353.768;

(4) "Cost" means the expenditures for construction, acquisition, financing charges, interest prior to and during construction, principal and interest on any bonds or notes or obligations issued by the authority, engineering and legal expenses, plans, specifications, cost and revenue estimates, other expenses necessary or incidental to determining the feasibility or practicability of constructing any project, administrative expenses, and such other expenses necessary or incident to the construction of and placing into operation a project, the financing of the construction, and the acquisition of the project;

(5) "Project" means the construction, reconstruction, improvement, or repair of any gas pipeline or appurtenant facilities, together with all property, rights, easements, and interests which may be acquired by the authority to facilitate the construction, reconstruction, improvement, or repair of any gas pipeline or appurtenant facilities. Except for projects involving repair or replacement, projects shall be limited to areas where no gas pipelines exist or where existing lines have insufficient capacity to transport Kentucky gases to market; and

(6) "Gas" means natural gas, coalbed or other methane gas, ***crude oil or petroleum products,*** or any elements of natural gas or other gas.

The Committee Substitute to **HB 102** is as follows:

HB 102, AN ACT relating to the Kentucky Gas Pipeline Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.750 is amended to read as follows:

As used in KRS 353.750 to 353.776, unless the context requires otherwise:

(1) "Agreement" means a written contract between the authority and any person or persons, firm, corporation, local government, or public entity providing for or relating to the financing of the construction, reconstruction, improvement, or repair of one (1) or more projects of the authority;

(2) "Authority" means the Kentucky Gas Pipeline Authority created by KRS 353.752;

(3) "Bonds" mean revenue bonds, notes, or other obligations issued under the provisions of KRS 353.756, 353.758, or 353.768;

(4) "Cost" means the expenditures for construction, acquisition, financing charges, interest prior to and during construction, principal and interest on any bonds or notes or obligations issued by the authority, engineering and legal expenses, plans, specifications, cost and revenue estimates, other expenses necessary or incidental to determining the feasibility or practicability of constructing any project, administrative expenses, and such other expenses necessary or incident to the construction of and placing into operation a project, the financing of the construction, and the acquisition of the project;

(5) "Project" means the construction, reconstruction, improvement, or repair of any gas pipeline or appurtenant facilities, together with all property, rights, easements, and interests which may be acquired by the authority to facilitate the construction, reconstruction, improvement, or repair of any gas pipeline or appurtenant facilities. Except for projects involving repair or replacement, projects shall be limited to areas where no gas pipelines exist or where existing lines have insufficient capacity to transport Kentucky gases to market; and

(6) "Gas" means natural gas, coalbed or other methane gas, ***carbon dioxide gas, crude oil or petroleum products,*** or any elements of natural gas or other gas.

HB 123, AN ACT relating to electric meters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The commission shall initiate a pilot program for the installation of next-generation residential electric meters in at least three hundred (300) homes in a target community.

(1) The meters shall:

- ***(a) Be installed primarily in new homes but a percentage shall be made available to owners of existing homes who volunteer;***
- ***(b) Have a digital readout screen in a commonly used interior area of the home such as the kitchen, bath, laundry room, or adjacent to the thermostat. Installation in low-traffic, unfinished, or storage areas of the home such as garages, unfinished basements, or attics shall not be allowed. The screen shall be installed between four (4) and six (6) feet above floor level;***
- ***(c) Provide residents with a numerical figure for current electric usage in the home; and***
- ***(d) Be capable of transmitting usage data to utility employees who are not on the premises.***

(2) (a) The utility or utilities which undertake the pilot project shall collect usage data from the meters for a period of not less than thirty-six (36) months. Data from homes of similar size and construction to the new construction study homes, but which have traditional meters, shall also be collected for comparison.

- ***(b) Usage data from prior years shall be collected on existing homes where owners have volunteered to have new meters installed.***
- ***(c) The commission shall make the comparison data publicly available. The identity and other personal information of homeowners shall remain confidential.***

(3) The commission is encouraged to seek funding for this pilot project from the Environmental Trust Fund in KRS 224.01-200 to 224.01-220.

The Committee Amendment No. 1 to **HB 123** is as follows:

HB 123, On page 1, line 9, following the period, by inserting "***Devices which plug into any electrical outlet and provide data on current household electrical usage shall be allowed.***"

On page 2, after line 3 by inserting:

"Section 2. The purpose of this Act is to demonstrate that such meters are one of many tools which, when placed in the hands of consumers, can help them to reduce wasteful energy use and save money on their energy bills."

HCR 12, A CONCURRENT RESOLUTION urging support of H.R. 6087, which would establish a two-year pilot program requiring the U.S. Army Corps of Engineers to maintain a summer water level of 359 feet in Lake Barkley through the first Monday in September.

WHEREAS, the safety of boaters is threatened by lowering water levels on Lake Barkley during the peak tourist season; and

WHEREAS, boats and other watercraft and their occupants are imperiled by obstructions that are exposed when water levels are lowered during the tourist season; and

WHEREAS, navigation on Lake Barkley is vastly improved by retaining a high water level; and

WHEREAS, enacting H.R. 6087 would boost the economic viability of the region surrounding the lake by lengthening the tourist season; and

WHEREAS, fishing conditions on the lake would be improved by maintaining a higher lake level, thus promoting Kentucky's recreational tourism opportunities; and

WHEREAS, tourism promotional groups have long advocated such a policy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Congress of the United States is urged to enact H.R. 6087, which would establish a two-year pilot program requiring the U.S. Army Corps of Engineers to maintain a summer water level of 359 feet in Lake Barkley through the first Monday in September.

Section 2. Boaters, fishermen, tourism-related businesses, tourism promotional groups, and other interested parties are urged to contact their Congressional representatives to demonstrate their support of H.R. 6087, and to contact their state senators and representatives to demonstrate their support of this Concurrent Resolution.

Section 3. The Clerk of the Kentucky House of Representatives is directed to send a copy of this Concurrent Resolution to the Clerk of the United States Senate, the Clerk of the United States House of Representatives, and to each member of the Kentucky Congressional delegation.

The Committee Substitute to **HCR 12** is as follows:

HCR 12, A CONCURRENT RESOLUTION urging support of H.R. 6087, which would establish a two-year pilot program requiring the U.S. Army Corps of Engineers to maintain a summer water level of 359 feet in Lake Barkley through the first Monday in September.

WHEREAS, the safety of boaters is threatened by lowering water levels on Lake Barkley during the peak tourist season; and

WHEREAS, boats and other watercraft and their occupants are imperiled by obstructions that are exposed when water levels are lowered during the tourist season; and

WHEREAS, navigation on Lake Barkley is vastly improved by retaining a high water level; and

WHEREAS, enacting H.R. 574 would boost the economic viability of the region surrounding the lake by lengthening the tourist season; and

WHEREAS, fishing conditions on the lake would be improved by maintaining a higher lake level, thus promoting Kentucky's recreational tourism opportunities; and

WHEREAS, tourism promotional groups have long advocated such a policy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Congress of the United States is urged to enact H.R. 574, which would establish a two-year pilot program requiring the U.S. Army Corps of Engineers to maintain a summer water level of 359 feet in Lake Barkley through the first Monday in September.

Section 2. Boaters, fishermen, tourism-related businesses, tourism promotional groups, and other interested parties are urged to contact their Congressional representatives to demonstrate their support of H.R. 574, and to contact their state senators and representatives to demonstrate their support of this Concurrent Resolution.

Section 3. The Clerk of the Kentucky House of Representatives is directed to send a copy of this Concurrent Resolution to the Clerk of the United States Senate, the Clerk of the United States House of Representatives, and to each member of the Kentucky Congressional delegation.

The Committee Amendment No. 1 Title to **HCR 12** is as follows:

HCR 12, Amend the title on the first line by deleting "6087" and inserting "574" in lieu thereof.

HJR 23, A JOINT RESOLUTION renaming the White City Wildlife Management Area the Joseph Fay Britt-White City Wildlife Management Area.

WHEREAS, the White City Wildlife Management Area in western Kentucky contains 5,400 acres; and

WHEREAS, Fay Britt was instrumental in convincing the Department of Fish and Wildlife Resources Commission to purchase the land from the Peabody Coal Company in 1977 for $250,000, which was half of the land's value at that time; and

WHEREAS, upon the sale of the land to the commission, Mr. Britt worked to see that the White City Wildlife Management Area was developed and improved; and

WHEREAS, Fay Britt had been a lifelong supporter of hunting and fishing activities, and was a member of the Department of Fish and Wildlife Resources Commission for 12 years; and

WHEREAS, renaming the area in honor of Mr. Britt would reflect the appreciation that the Commonwealth shows for Mr. Britt's dedication to improving the wildlife resources of our state;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The White City Wildlife Management Area is hereby renamed the Joseph Fay Britt-White City Wildlife Management Area.

The Committee on State Government reported **HB 23, HB 62,** with Committee Substitute attached thereto, **HB 71, HB 78, HB 99,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 23, AN ACT relating to nonprofit agencies and work centers serving the blind or severely disabled.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) "Nonprofit agency or work center serving the blind or severely disabled" or "nonprofit agency or work center" means a program that provides directly or facilitates the provision of vocational rehabilitation services to blind individuals and individuals with severe disabilities, and that provides, singly or in combination, for a blind individual or an individual with a severe disability to enable the individual to maximize opportunities for employment, including career advancement, through:

(a) Medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(b) Testing, fitting, or training in the use of prosthetic and orthotic devices;

(c) Recreational therapy;

(d) Physical and occupational therapy;

(e) Speech, language, and hearing therapy;

(f) Psychiatric, psychological, and social services, including positive behavior management;

(g) Assessment for determining eligibility and vocational rehabilitation needs;

(h) Rehabilitation technology;

(i) Job development, placement, and retention services;

(j) Evaluation or control of specific disabilities;

(k) Orientation and mobility services for individuals who are blind;

(l) Extended employment;

(m) Psychosocial rehabilitation services;

(n) Supported employment services and extended services;

(o) Services to family members when necessary to the vocational rehabilitation of the individual;

(p) Personal assistance services; or

(q) Services similar to the services described in one of paragraphs (a) to (p) of this subsection;

(2) "Blind" means legally blind as defined in KRS 163.460; and

(3) "Individuals with severe disabilities" means persons with a physical disability as defined in KRS 198B.010, persons with a developmental disability as defined in KRS 387.510, and mentally retarded persons and persons with mental illness as both terms are defined in KRS 210.005.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky State Use Commission is created to enhance the purchase of products and services made and offered by nonprofit agencies and work centers serving the blind or severely disabled. The Kentucky State Use Commission is attached to the Finance and Administration Cabinet for administrative purposes.

(2) The Kentucky State Use Commission shall:

(a) Designate a central nonprofit association that shall represent all nonprofit agencies and work centers serving the blind or severely disabled desiring to provide products or services to governmental bodies. The central nonprofit association shall be an established nonprofit association that represents agencies, work centers, or other nonprofit programs serving the blind or severely disabled statewide. The central nonprofit association shall facilitate the distribution of work to nonprofit agencies and work centers serving the blind or severely disabled through direct allocations, subcontracts, or other means, under oversight by the Kentucky State Use Commission. The central nonprofit association may charge a fee to participating nonprofit agencies and work centers for facilitating their participation. The fee shall not exceed rates approved by the Kentucky State Use Commission. The nonprofit agencies and work centers serving the blind or severely disabled may factor this fee into the cost of their products or services as an administrative expense.

(b) Negotiate state contracts with the nonprofit agencies and work centers serving the blind or severely disabled, and determine the contract award in the event that two (2) or more nonprofit agencies and work centers serving the blind or severely disabled are offering identical products and services. The Kentucky State Use Commission shall make this determination based on the quality of the product or service offered by the nonprofit agency or work center and the ability of the nonprofit agency or work center to supply the product or service within the requested delivery time.

(c) Determine annually the current price range on the open market for each product or service offered by the

nonprofit agencies and work centers serving the blind or severely disabled.

(d) Make a listing of the products and services provided by nonprofit agencies and work centers serving the blind or severely disabled available to all governmental bodies.

(e) Certify whether a nonprofit agency or work center serving the blind or severely disabled qualifies to offer products or services to governmental bodies. In making this certification, the commission shall determine whether the nonprofit agency or work center:

1. Is organized and operated in the interest of blind individuals or individuals with severe disabilities;

2. Complies with any applicable occupational health and safety law of the United States and the Commonwealth;

3. In the manufacture or provision of products or services listed or purchased under Section 4 of this Act, employs during the fiscal year blind individuals or individuals with severe disabilities for not less than seventy-five percent (75%) of the man-hours of direct labor required for the manufacture or provision of the products or services, or not less than seventy-five percent (75%) of the man-hours of direct labor required for reselling the products or services; and

4. Is registered and in good standing as a nonprofit organization with the Secretary of State.

(f) Implement the provisions of this section through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

(3) The membership of the Kentucky State Use Commission shall consist of ten (10) members including the following:

(a) The secretary of the Finance and Administration Cabinet or the secretary's designee;

(b) The secretary of the Cabinet for Economic Development or the secretary's designee;

(c) The commissioner of the Department for the Blind or the commissioner's designee;

(d) The commissioner of the Department of Vocational Rehabilitation or the commissioner's designee;

(e) One (1) member from nonprofit agencies serving individuals with severe disabilities, to be appointed by the Governor;

(f) One (1) member representing private business who is knowledgeable about the sale of goods or services to governmental bodies, to be appointed by the Governor;

(g) One (1) person with a physical disability as defined by KRS 198B.010, to be appointed by the Governor;

(h) One (1) person who has a developmental disability as defined by KRS 387.510, to be appointed by the Governor;

(i) One (1) person who is legally blind under KRS Chapter 163, to be appointed by the Governor; and

(j) One (1) person who has a mental illness as defined by KRS 210.005(2), to be appointed by the Governor.

(4) The terms of members appointed by the Governor shall be for four (4) years and no member appointed by the Governor shall serve more than eight (8) years in any twelve (12) year period. The Governor shall designate one (1) member to serve as chairperson each year.

(5) No member of the Kentucky State Use Commission shall receive a salary, fee, or other remuneration for services as a member of the commission, but each member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to implementation of the provisions of this section.

(6) The Kentucky State Use Commission shall meet at the call of the Governor or the chair, but no less often than four (4) times during each calendar year. A majority of the members shall constitute a quorum.

(7) By October 1 of each year, the Kentucky State Use Commission shall submit a report to the Governor and the Legislative Research Commission documenting:

(a) Dates and agendas of Kentucky State Use Commission meetings;

(b) Accomplishments in fulfilling its statutory charge; and

(c) The number and dollar value of each state contract with nonprofit agencies and work centers serving the blind or severely disabled in effect, and the breakdown of contracts awarded to nonprofit agencies and work centers serving the blind, and the contracts awarded to nonprofit agencies and work centers serving the severely disabled.

(8) The Kentucky State Use Commission shall use, so far as practical, and subject to the approval of the Governor, secretarial and clerical staff of the executive branch of state government to carry out the provisions of this section.

Section 3. KRS 45A.465 is amended to read as follows:

As used in KRS 45A.470, the words:

(1) "*Kentucky State Use Commission" means the commission created in Section 2 of this Act to enhance and facilitate governmental bodies' purchase of products and services made and offered by nonprofit agencies and work centers serving the blind or severely disabled*[~~Other individuals with severe disabilities" means an individual or class of individuals with a disability, other than blindness, that constitutes an obstacle to new or continued normal employment~~].

(2) "Products" means programs, books, tapes, records, processes, packaging, modification, supplies, food, clothing, materials, commodities, equipment of all kinds, and any other article of commerce originally manufactured or assembled or purchased for resale by a qualified nonprofit agency.

(3) "Qualified nonprofit agency ***or work center serving the blind or severely disabled***[~~for individuals with severe disabilities~~]" means an organization ***approved by the Kentucky State Use Commission as meeting the requirements of subsection (2)(e) of Section 2 of this Act***[~~that:~~

~~(a) Is organized and operated in the interest of individuals with severe disabilities; and~~

~~(b) Complies with any applicable occupational health and safety law of the United States and the Commonwealth; and~~

~~(c) In the manufacture or provision of products or services listed or purchased under KRS 45A.470, during the fiscal year employs individuals with severe disabilities for not less than seventy-five percent (75%) of the man-hours of direct labor required for the manufacture or provision of the products or services; and~~

~~(d) Is registered and in good standing as a nonprofit organization with the Secretary of State~~].

(4) "Services" means contractual services; rental services of all kinds; professional, technical, or artistic services; and other personal performance of work by officers, employees, or beneficiaries of a nonprofit agency.

(5) "State agency" means those spending agencies subject to the state purchasing requirements of this code and any regulations promulgated pursuant thereto.

Section 4. KRS 45A.470 is amended to read as follows:

(1) All governmental bodies[~~ and political subdivisions~~] of this state shall, when purchasing commodities or services, ***purchase***[~~give first preference to~~] the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. ***If products or services are not available to be purchased from the Department of Corrections, Division of Prison Industries, purchases***[~~Second preference~~] shall be ***made from qualified nonprofit agencies and work centers serving the blind or severely disabled, when products and services are available***[~~given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the Office for the Blind contracts under KRS 163.480(2)~~] to further the purposes of KRS Chapter 163 and ***nonprofit agencies and work centers serving the blind or severely disabled***[~~agencies of individuals with severe disabilities~~] as described in KRS 45A.465. ***Notwithstanding any other provision of KRS Chapter 45A, Kentucky Correctional Industries and qualified nonprofit agencies and work centers serving the blind or severely disabled shall not be required to engage in competitive or noncompetitive bidding. Prices quoted by qualified nonprofit agencies and work centers serving the blind or severely disabled shall not exceed the current price range for the product or service as determined by the Kentucky State Use Commission.***

(2) The ***Kentucky State Use Commission***[~~Finance and Administration Cabinet~~] shall make a list of commodities and services provided by ***qualified nonprofit***[~~these~~] agencies and ***work centers serving the blind or severely disabled***[~~organizations~~] available to all governmental bodies[~~ and political subdivisions~~]. ***The Finance and Administration Cabinet shall make a list of commodities and services provided by the Kentucky Correctional Industries available to all government bodies.*** The ***lists***[~~list~~] shall identify in detail the commodity or service the ***Kentucky Correctional Industries or the qualified nonprofit*** agency or ***work center***[~~organization~~] may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine***, and assist the Kentucky State Use Commission in its annual determination of,*** the current price range for the commodities and services offered ***using***[~~from~~] its experience ***and historical data*** in purchasing these commodities or services on the open market.[~~ The prices quoted by these agencies or organizations shall not exceed the current price range.~~]

(4) The Office for the Blind within the Education Cabinet and qualified ***nonprofit*** agencies ***and work centers*** for ***the severely disabled***[~~individuals with severe disabilities~~] shall annually cause to be made available to the ***Kentucky State Use Commission***[~~Finance and Administration Cabinet,~~] lists of the products or services available.

(5) If two (2) or more of the ***qualified nonprofit*** agencies ***and work centers for the blind or severely disabled***[~~or qualified nonprofit organizations~~] wish to supply identical commodities or services, the ***Kentucky State Use Commission***[~~Finance and Administration Cabinet~~] shall conduct negotiations with the parties to determine which shall be awarded the contract.[~~ The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.~~]

Section 5. KRS 45A.080 is amended to read as follows:

(1) ***Except as provided by Section 4 of this Act,*** contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include:

(a) Whether specifications can be prepared that permit award on the basis of best value; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state that awards shall be made on the basis of best value. In any contract which is awarded

under an invitation to bid which requires delivery by a specified date and imposes a penalty for late delivery, if the delivery is late, the contractor shall be given the opportunity to present evidence that the cause of the delay was beyond his control. If it is the opinion of the purchasing officer that there is sufficient justification for delayed delivery, the purchasing officer may adjust or waive any penalty that is provided for in the contract.

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate, if applicable, and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.

(5) The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value.

(6) Correction or withdrawal of bids shall be allowed only to the extent permitted by regulations issued by the secretary.

Section 6. KRS 45A.085 is amended to read as follows:

(1) When, under administrative regulations promulgated by the secretary or under KRS 45A.180, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095***,***[~~ and~~] 45A.100, ***and Section 4 of this Act,*** a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts other than contracts for projects utilizing an alternative project delivery method under KRS 45A.180 may be competitively negotiated when it is determined in writing by the purchasing officer that the bids received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate.

(4) Contracts for projects utilizing an alternative project delivery method shall be processed in accordance with KRS 45A.180.

(5) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(6) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(7) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

  (a) With respect to prices, where the prices are fixed by law or administrative regulation, except that consideration shall be given to competitive terms and conditions;

  (b) Where time of delivery or performance will not permit discussions; or

  (c) Where it can be clearly demonstrated and documented from the existence of adequate competition or prior experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable best value procurement, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 7. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, ***pursuant to Section 4 of this Act,*** or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

  (a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

  (b) Where rates are fixed by law or ordinance;

  (c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725; and

(h) For agricultural products in accordance with KRS 45A.645.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 8. KRS 45A.100 is amended to read as follows:

(1) ***If purchases are not available under the provisions of Section 4 of this Act,*** procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:

(a) Up to ten thousand dollars ($10,000) per project for construction and one thousand dollars ($1,000) for purchases by any state governmental body, except for those state administrative bodies specified in paragraph (b) of this subsection; and

(b) Up to forty thousand dollars ($40,000) per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

(3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority which exceeds the agency's small purchase limit provided in subsection (1) of this section. Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Nonprofit agency or work center serving the blind or severely disabled" means a program that provides directly or facilitates the provision of vocational rehabilitation services to blind individuals and individuals with severe disabilities, and that provides, singly or in combination, for a blind individual or an individual with a severe disability to enable the individual to maximize opportunities for employment, including career advancement, through:

1. Medical, psychiatric, psychological, social, and vocational services that are provided under one (1) management;

2. Testing, fitting, or training in the use of prosthetic and orthotic devices;

3. Recreational therapy;

4. Physical and occupational therapy;

5. Speech, language, and hearing therapy;

6. Psychiatric, psychological, and social services, including positive behavior management;

7. Assessment for determining eligibility and vocational rehabilitation needs;

8. Rehabilitation technology;

9. Job development, placement, and retention services;

10. Evaluation or control of specific disabilities;

11. Orientation and mobility services for individuals who are blind;

12. Extended employment;

13. Psychosocial rehabilitation services;

14. Supported employment services and extended services;

15. Services to family members when necessary to the vocational rehabilitation of the individual;

16. Personal assistance services; or

17. Services similar to those described in subparagraphs 1. to 16. of this paragraph;

(b) "Blind" means legally blind as defined in KRS 163.460; and

(c) "Individuals with severe disabilities" means persons with a physical disability as defined in KRS 198B.010, persons with a developmental disability as defined in KRS 387.510, and mentally retarded persons and persons with mental illness as both terms are defined in KRS 210.005.

(2) A community rehabilitation credit program is hereby established to provide a tax credit for corporations that contract with a nonprofit agency or work center serving the blind or severely disabled to provide work opportunities for those individuals.

(3) (a) For tax years beginning on or after January 1, 2008, a corporation shall be allowed a nonrefundable credit against the tax imposed by KRS 141.040 equal to five percent (5%) of the amount paid to a nonprofit agency or work center serving the blind or severely disabled by a corporation for work performed by individuals with severe disabilities pursuant to a contract with the nonprofit agency or work center serving the blind or severely disabled if the compensation paid to the individuals is subject to the tax assessed under KRS 141.020.

(b) The maximum amount of tax credit that may be claimed by each corporation shall not exceed twenty-five thousand dollars ($25,000) per nonprofit agency or work center serving the blind or severely disabled per tax year.

(4) The tax credit taken in any tax year shall not exceed the tax liability of the corporation imposed by KRS 141.040. A tax credit not used in the tax year generated may be carried forward and used against the tax imposed under KRS 141.040 for the next two (2) consecutive years.

(5) A credit shall not be allowed under this section unless the corporation includes, with the return on which the credit is claimed, a form prescribed by the department verifying that:

(a) The corporation has entered into a contract with a nonprofit agency or work center serving the blind or severely disabled; and

(b) The nonprofit agency or work center serving the blind or severely disabled has received payment from the corporation for work provided during the taxable year.

Section 10. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(c) The certified rehabilitation credit permitted by KRS 171.397;

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025; and

(o) The clean coal incentive credit permitted by KRS 141.428.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069; and

(d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305; and

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(b) The certified rehabilitation credit permitted by KRS 171.397;

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~and~~]

(o) The clean coal incentive credit permitted by KRS 141.428***; and***

(p) The community rehabilitation tax credit permitted by Section 9 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

HB 62, AN ACT relating to executive branch employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet;~~[,]~~ the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, ***and*** division directors;~~[,]~~ members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education;~~[, and]~~ any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection; ***and any unpaid executive officer;***

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

- (a) The Governor;
- (b) The Lieutenant Governor;
- (c) The Secretary of State;
- (d) The Attorney General;
- (e) The Treasurer;
- (f) The Commissioner of Agriculture;
- (g) The Auditor of Public Accounts; and
- (h) All employees in the executive branch, including officers as defined in subsection (7) of this section***, executive officers as defined in subsection (20) of this section,*** and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government ***except advisory committees established for the purpose of providing advice and making recommendations to the agency and having no statutory decision-making authority***. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on

behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally;[~~ and~~]

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public***; and***

(20) "Executive officer" means any person working in the executive branch of state government who performs advisory, policy-making, personnel, or discretionary duties, regardless of whether the person also performs some ministerial or perfunctory duties.

Section 2. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;

(2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

(3) "Board" means the Personnel Board created by KRS 18A.045;

(4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) "Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;

(8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;

(9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;

(11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;

(13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;

(14) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time, part-time, or interim basis;

(15) "Federally funded time-limited employee" means an employee in the unclassified service, appointed to a position that is funded one hundred percent (100%) by a federal grant or grants. An employee appointed to a federally funded time-limited position shall be required to meet the minimum requirements for the classification in which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve at the pleasure of the appointing authority during a period of time that shall not exceed the life of the federal grant that funds the position. A federally funded time-limited employee who has been aggrieved by notice of disciplinary action or termination, other than an action based on expiration of the federal grant funding, may petition the appointing authority of the agency for the opportunity to be heard by the appointing authority or his designee prior to the effective date of the disciplinary action or termination. The decision of the appointing authority shall be final except as provided by KRS 18A.095***(16)***[~~(15)~~](a) and 18A.140. A federally funded time-limited employee shall not have the right of appeal to the Personnel Board except as provided by KRS 18A.095***(16)***[~~(15)~~](a) and 18A.140;

(16) "Federally funded position" means a full-time or a part-time position in which the unclassified employee is eligible for benefits at the same level as a classified employee in a permanent position;

(17) "Full-time employee" means an employee in a full-time position;

(18) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:

(a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and

(b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;

(19) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence;

(20) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;

(21) "Interim position" means a position established to address a one-time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;

(22) "Part-time employee" means an employee in a part-time position;

(23) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;

(24) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines***, written reprimands,*** and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the ***abridgment***[~~abridgement~~] or denial of other rights granted to state employees;

(25) "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;

(26) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(27) "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;

(28) ***"Qualifying" means the selection method type which results when the knowledge, skills, and abilities necessary for a job classification cannot be accurately measured by written, performance, or training and experience examinations and shall be reserved for classifications which require specialized training and experience or a professional license or certification;***

(29) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;

(30)[~~(29)~~] "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;

(31)[~~(30)~~] "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

(32)[~~(31)~~] "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(33)[~~(32)~~] "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(34)[~~(33)~~] "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

(35)[~~(34)~~] "Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095***(14)***[~~(13)~~];

(36)[~~(35)~~] "Seniority" means the total number of months of state service;

(37)[~~(36)~~] "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service; and

(38)[~~(37)~~] "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 3. KRS 18A.030 is amended to read as follows:

(1) The secretary shall be the executive and administrative head of the cabinet and shall supervise and control all examinations and work of the cabinet. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his staff:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

(d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;

(f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g) ***Propose selection method changes for any classification to the Personnel Board with documentation justifying the need for the selection method change. The Personnel Board shall, at its next regularly scheduled monthly meeting, either approve or reject any proposed selection method change. No classification shall have its selection method changed without final approval of the Personnel Board;***

(h) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(i)[~~(h)~~] Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

(j)[~~(i)~~] Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(k)[~~(j)~~] Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;

(l)[~~(k)~~] Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(m)[~~(l)~~] Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year; and

(n)[~~(m)~~] Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.

(3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The secretary shall keep records relative to employee turnover and report to the board, the Governor, and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.

(5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health and Family Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.

Section 4. KRS 18A.037 is amended to read as follows:

(1) The ***secretary***[~~commissioner~~] shall develop and propose a new system of classification and compensation to be transmitted to the Legislative Research Commission by November 15, 1997. The system proposed by the ***secretary***[~~commissioner~~] shall be developed using a nationally-recognized system for evaluating job requirements. The proposed system shall

determine the requirements of each job classification by using factors such as, but not limited to, knowledge, skill, effort, responsibility, accountability, problem solving, discretion, challenge, and working conditions, to ensure pay equity as required by KRS Chapters 337 and 344.

(2) The ***secretary***[~~commissioner~~] shall include, as a part of the proposal, estimated funding requirements for the implementation of the system.

Section 5. KRS 18A.040 is amended to read as follows:

The board and the ***secretary***[~~commissioner~~] shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of KRS 18A.005 to 18A.200.

Section 6. KRS 18A.045 is amended to read as follows:

(1) There is hereby created a Personnel Board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of ***nine (9)***[~~seven (7)~~] members, five (5) of whom shall be appointed by the Governor as provided in KRS 18A.050. ***Four (4)***[~~Two (2)~~] members of the board shall be elected by classified employees as provided in KRS 18A.0551***, except for the two (2) newly established members who shall be elected by classified employees during a special election to be held prior to July, 2007***.

(2) ***Personnel Board members shall not accept gifts as provided in KRS 11A.045(1), benefit under any contract or agreement as provided in KRS 11A.040(4), or fail to disclose to other members of the board any direct or indirect conflict of interest as provided in KRS 11A.005(2)(c).***

(3) Any person retaliating in any manner and any person ordering retaliation against a classified employee or a member of his family because he has participated in an election to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of KRS 18A.990.

Section 7. KRS 18A.050 is amended to read as follows:

(1) Any person serving on the board on July 15, 1982, shall serve until the expiration of his current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed as provided in subsections (2) and (3) of this section, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in KRS 18A.045 and for the remainder of such term.

(2) Upon the expiration of the terms of office of the two (2) board members whose terms expire January 1, 1984, the Governor shall appoint two (2) members from a list of four (4) names submitted by the Legislative Research Commission. Thereafter, upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.

(3) Upon the expiration of the terms of office, of the members whose terms expire December 31, 1982, January 1, 1985, and January 1, 1986, the Governor shall appoint citizens at large who are not associated with state government in any manner. Thereafter upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.

(4) These five (5) appointments to the board shall be subject to confirmation by the Senate. If the Senate is not in session, these five (5) appointments shall be subject to review by the Interim Joint Committee on State Government which shall hold a public hearing and shall transmit its recommendations to the Senate.

(5) The initial election of classified employees to the board shall be held as provided in KRS 18A.0551. The two (2) classified employees initially elected to the board shall serve until July 1, 1986. ***The two (2) classified employees elected to the board pursuant to subsection (1) of Section 6 of this Act shall serve on the board for a term of three (3) years and may seek re-election as provided in this section.*** Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected. If a vacancy occurs prior to the expiration of such term, the board shall fill the vacancy as provided in KRS 18A.060. ***For the election cycle beginning June 2010, four (4) classified employees shall be elected to the board to serve four (4) year terms. No classified employee shall be eligible to seek reelection for more than three (3) successive terms on the board***[~~Effective for the election to be held in 1986 and all subsequent elections, a classified employee elected to the board shall not be eligible for reelection to the board for the four (4) year term succeeding the expiration of the term for which he shall have been elected. He shall also be ineligible to be appointed to fill a vacancy that occurs during the four (4) year term succeeding the expiration of the four (4) year term for which he shall have been elected. The classified employees elected to the board at the election held in 1982 shall be eligible for the 1986 election~~].

(6) If an elected board member accepts an unclassified position with state government, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in KRS 18A.060.

(7) If an elected board member accepts a classified position in a cabinet employing another board member or if, through no fault of his own, he is placed in that cabinet, his membership on the board shall not be terminated for the remainder of his term.

Section 8. KRS 18A.0551 is amended to read as follows:

(1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The board shall provide written notification of the date of the election to all classified employees on or before May 1; and

(b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employee wishing to serve on the board shall notify the board, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, Social Security number, job classification, and length of state employment. It shall also include the name and address of his current employer.

(2) On the last working day of May, the cabinet shall certify a payroll listing to the board that is current on such day and that contains the name, Social Security number, and home address of every classified employee.

(3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the board shall mail to each classified employee whose name appeared on the payroll listing certified by the cabinet at his home address:

(a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;

(b) Instructions for voting;

(c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and

(d) Two (2) envelopes for returning the ballot. Prior to mailing the envelopes to a state employee, one (1) envelope shall be addressed by the board to the impartial third party selected by the board to receive, validate, and tabulate the ballots at a post office box rented by the board for the election. The upper left corner of the preaddressed or outer envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name and address. The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name, address, Social Security number, the date, and to affix his signature.

(4) Upon receipt of his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:

(a) Vote for no more than *four (4)*[~~two (2)~~] candidates;

(b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote;

(c) Print his name and address in the upper left corner of the preaddressed or outer envelope provided by the board;

(d) Print his name, address, Social Security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the board;

(e) Seal his ballot in the second or inner envelope; and

(f) Seal the second or inner envelope in the preaddressed or outer envelope, affix a stamp to it, and post it.

(5) The board shall:

(a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;

(b) Acquire a post office box to which all ballots shall be mailed; and

(c) Provide the impartial third party with a computer generated list of the names and Social Security numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their Social Security numbers. The names and Social Security numbers listed on the list shall correspond to those appearing on the payroll certified by the cabinet under subsection (2) of this section.

(6) The impartial third party selected by the board shall collect all ballots, unopened, from the post office box. It shall:

(a) Examine the postmark on each envelope;

(b) Set aside, unopened, any preaddressed or outer envelope postmarked with a date subsequent to the deadline provided for by this section;

(c) Remove the second or inner envelope from the preaddressed or outer envelope;

(d) Verify the name and Social Security number on the second or inner envelope by comparing them to the computer generated list of names and Social Security numbers of eligible voters provided by the cabinet;

(e) Set aside, unopened, any second or inner envelope containing a name and Social Security number that does not match the name and Social Security number appearing next to the name on the computer generated list;

(f) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (b) and (e) of this subsection shall not be counted;

(g) Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the cabinet;

(h) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the board; and

(i) Certify to the board:

1. That the tabulation does not include two (2) or more ballots with the same Social Security number;
2. The total number of ballots received;
3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;
4. The total number of ballots included in the tabulation; and
5. The total vote for each candidate.

(7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes, and other election materials provided for by this section shall be public record and open to inspection, but the home addresses and Social Security numbers of the eligible employees and voters shall be redacted prior to public inspection or disclosure.

(8) The ***four (4)***[~~two (2)~~] candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(9) Successful candidates shall be notified by the board no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.

(10) State employees shall not use state materials or equipment for any purpose related to the election of classified employees to the board, nor shall any activity related to the election of a classified employee to the board be conducted during working hours.

Section 9. KRS 18A.075 is amended to read as follows:

Subject to the provisions of this chapter and KRS Chapter 13A, it shall be the duty of the board to:

(1) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants for the purpose of carrying out the provisions of this chapter;

(2) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18A.005 to 18A.200, and to require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A; and to make such investigation as may be requested by the General Assembly or the Governor and to report thereon;

(3) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, from unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause, and from officers or employees serving under the personnel systems created by this chapter, as provided by 1986 Acts Ch. 494;

(4) In cooperation with the secretary, promote public understanding of merit principles in government service;

(5) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel board;

(6) Make annual reports to the Governor, the Legislative Research Commission,[~~ and~~] the secretary ***of the Personnel Cabinet, and the co-chairs of the Interim Joint Committee on State Government prior to October 1. The board shall make***[~~ and~~] biennial reports to the General Assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy***. The reports shall include the following:***

(a) The number of merit state employees at the beginning and the end of the reporting period;

(b) The total number of grievances filed and mediation requests made by merit employees during the reporting period;

(c) A tabulation of the types of grievances filed during the reporting period, including whether the grievances were filed regarding suspension, fine, demotion, dismissal, discrimination, job working conditions, or other penalization;

(d) A tabulation of the types of mediation requests filed during the reporting period, including whether the grievances were filed regarding suspension, fine, demotion, dismissal, discrimination, job working conditions, or other penalization;

(e) A comparison of the number of grievances and mediations filed by merit employees in previous reporting periods, including a comparison in the categories listed in paragraphs (c) and (d) of this subsection;

(f) A tabulation of the stages in which employee complaints were resolved during the reporting period;

(g) The average amount of time taken to resolve employee complaints during the reporting period, by stage; and

(h) A comparison of the amount of time taken to resolve employee complaints during the reporting period, by stage, and the amount of time taken during the previous reporting periods;

(7) Advise the Governor and the secretary with respect to the administration of the personnel system created by this chapter;

(8) Consider and act on such matters as may be referred to the board by the secretary;[~~ and~~]

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the secretary in fostering the interest of institutions of learning and of civic, professional, and employee organizations in the

improvement of personnel standards in the state service***; and***

(10) Make a determination, upon receiving notification of proposed classification selection method changes with proper documentation for the necessity for the change from the secretary, on classification selection method changes prior to those changes occurring. Upon receiving a classification selection method change proposals from the secretary, the board shall, at its next regularly scheduled monthly meeting, either approve or reject the proposed selection method change. No classification shall have its selection method changed without final approval from the board.

Section 10. KRS 18A.0751 is amended to read as follows:

(1) The board shall promulgate comprehensive administrative regulations for the classified service governing:
  (a) Appeals by state employees;
  (b) Demotion;
  (c) Dismissal;
  (d) Fines, suspensions, and other disciplinary measures;
  (e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;
  (f) Promotion;
  (g) Reinstatement;
  (h) Transfer; and
  (i) Employee grievances and complaints.

(2) (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
  (b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
  (c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.

(3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the secretary for review:
  (a) The secretary shall review the administrative regulation proposed by the board not more than twenty (20) days after its submission to him;
  (b) Not more than five (5) days after his review, the secretary shall submit his recommendations in writing to the board;
  (c) The board shall review the recommendations of the secretary and may revise the proposed administrative regulation as it deems necessary; and
  (d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(4) These administrative regulations shall provide:
  (a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;
  (b) For reduction in rank or grade as provided by this chapter;
  (c) For discharge, as provided by this section;
  (d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employee of the discipline and his right of appeal;
  (e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The secretary may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:
    1. The job classification for which an initial probationary period in excess of six (6) months is required; and
    2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;

(f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(g) For reemployment of laid-off employees in accordance with the provisions of this chapter;

(h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);

(i) For establishment of a plan for resolving employee grievances and complaints. ***The board shall provide guidelines for dispute resolution for employees that attempt to resolve any work-related complaint or penalization. There shall be two (2) distinct methods for dispute resolution. Employees may choose to proceed under either the procedure set out in subparagraph 1. of this paragraph or the procedure set out in subparagraph 2. of this paragraph.***

1. An employee may seek resolution through an interagency mediation process in which the agency shall participate. If an employee choosing mediation is dissatisfied with the results of the mediation, the employee may appeal the results to a peer review committee which shall be established by the Personnel Cabinet. An employee may appeal the decision of the peer review committee, within thirty (30) days, to the Personnel Board; or

2. An employee may file his or her grievance, and may appeal the appointing authority's decision concerning the grievance to the Personnel Board.

This plan shall not restrict rights granted employees by the provisions of this chapter;

(j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapter; and

(k) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 11. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of such action or activity; and

4. The name of the parties involved;[~~ and~~]

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee***; and***

(c) That the employee, upon receiving an intent to dismiss letter prior to the agency's final action, may be suspended by the appointing authority with pay.

(4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension, or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to ***request mediation or file a grievance within thirty (30) days***[~~appeal to the board within sixty (60) days~~], excluding the day that he ***or she*** received notification ***of the penalization***.

(10) ***An employee may seek resolution of any work-related complaint or penalization. There shall be two (2) distinct procedures for dispute resolution. Employees may choose to proceed under either the procedure set out in subparagraph 1. of this paragraph or the procedure set out in subparagraph 2. of this paragraph.***

1. An employee may seek resolution through an interagency mediation process in which the agency shall participate. If an employee choosing mediation is dissatisfied with the results of the mediation, the employee may appeal the results to a peer review committee which shall be established by the Personnel Cabinet. An employee may appeal the decision of the peer review committee, within thirty (30) days, to the Personnel Board; or

2. An employee may file his or her grievance, and may appeal the appointing authority's decision concerning the grievance to the Personnel Board.

(11) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(12)[~~(11)~~] (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.

(13)[~~(12)~~] Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(14)[~~(13)~~] Any classified employee may ***request mediation or file a grievance for***[~~appeal to the board~~] an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(15)[~~(14)~~] When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

(16)[~~(15)~~] (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections *(12)*[~~(11)~~] and *(14)*[~~(13)~~] of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(17)[~~(16)~~] An ***employee may request interagency mediation or file a grievance concerning his or her*** evaluation[~~ may be appealed to the board~~] if an employee has complied with the review procedure established in KRS 18A.110(7)(j).

(18)[~~(17)~~] (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any ***final grievance or peer review committee decision***[~~notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section~~]. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the ***grievance or peer review committee decision***[~~action~~] he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

(19)[~~(18)~~] All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(20)[~~(19)~~] (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(21)[~~(20)~~] Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(22)[~~(21)~~] Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(23)[~~(22)~~] An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(24)[~~(23)~~] (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(25)[~~(24)~~] If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(26)[~~(25)~~] When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(27)[~~(26)~~] After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(28)[~~(27)~~] If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(29) After a final decision in a contested case has been rendered by the board or court, the board shall make the decision available to the public in electronic format on its Web site and shall organize the decisions according to the statutory basis for which the appeal was based.

(30)[~~(28)~~] For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(31)[~~(29)~~] Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 12. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;

(j) For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;
3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;
4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal***, as provided in subsection (4)(i) of Section 10 and subsection (10) of Section 11 of this Act***[~~to the Personnel Board for review~~] after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;
5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and
6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 13. KRS 18A.111 is amended to read as follows:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005 ***and this section***, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. The employee may be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

(2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.

(3) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise.

(4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.

(5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.

(6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

(7) A former unclassified employee under the provisions of KRS 18A.115 (d), (e), (f), (g), (h), and (i) shall serve an initial probationary period of twelve (12) months if the employee is appointed to a position in the classified service, unless that employee had previously had status in the classified service or had been separated from his or her previous unclassified position for at least one hundred eighty (180) days prior to the effective date of his or her appointment to the classified service.

Section 14. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the

classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employee in the classified service or member of the board or its executive director or secretary shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.

(4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid ***partisan*** public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy ***an elected office if***~~[a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and]~~ the election is on a nonpartisan basis***, the officers or employees have complied with the requirements of KRS 61.080, and the duties of the elective office do not interfere with or create any conflicts of interest with the state duties of the officer or employee in the classified service. The employee shall give notice to the appropriate entity of his or her intent to run for elective office upon the employee filing to run***.

Section 15. KRS 18A.195 is amended to read as follows:

(1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Upon the written request of an employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201 et seq., an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(2) ***No executive officer or officer, as defined in Section 1 of this Act, shall be eligible to receive any level of block payment for compensatory leave hours except as provided in subsection (3) of this section.***

(3) Any employee who leaves state service shall be paid for the balance of unused compensatory time ***not to exceed two hundred forty (240) hours***.

Section 16. The secretary of the Personnel Cabinet shall study the feasibility of establishing and implementing procedures regarding background checks and employment reference checks for all executive branch applicants. The feasibility study shall include comprehensive administrative regulations for the procedures and guidelines for the cabinet to follow when performing background and reference checks, along with potential budget appropriation language for performing such checks. The secretary of the Personnel Cabinet shall report his findings to the chairmen of Interim Joint Committee on State Government no later than November 1, 2007.

The Committee Substitute to **HB 62** is as follows:

HB 62, AN ACT relating to executive branch employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of

the cabinet***;***[~~,~~] the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, ***and*** division directors***;***[~~,~~] members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education***;***[~~, and~~] any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection; ***and any unpaid executive officer;***

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts; and

(h) All employees in the executive branch***,*** including officers as defined in subsection (7) of this section***, executive officers as defined in subsection (20) of this section,*** and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government ***except advisory committees established for the purpose of providing advice and making recommendations to the agency and having no statutory decision-making authority***. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally;[~~ and~~]

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public***; and***

(20) "Executive officer" means any person working or volunteering in the executive branch of state government who performs advisory, policy-making, personnel, or discretionary duties and uses any state-owned facilities, equipment, or personnel during the normal course of performing his or her duties, regardless of whether the person also performs some ministerial or perfunctory duties.

Section 2. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;

(2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the

provisions of KRS 18A.355 and 48.130;

(3) "Board" means the Personnel Board created by KRS 18A.045;

(4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) "Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;

(8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;

(9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;

(11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;

(13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;

(14) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time, part-time, or interim basis;

(15) "Federally funded time-limited employee" means an employee in the unclassified service, appointed to a position that is funded one hundred percent (100%) by a federal grant or grants. An employee appointed to a federally funded time-limited position shall be required to meet the minimum requirements for the classification in which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve at the pleasure of the appointing authority during a period of time that shall not exceed the life of the federal grant that funds the position. A federally funded time-limited employee who has been aggrieved by notice of disciplinary action or termination, other than an action based on expiration of the federal grant funding, may petition the appointing authority of the agency for the opportunity to be heard by the appointing authority or his designee prior to the effective date of the disciplinary action or termination. The decision of the appointing authority shall be final except as provided by KRS 18A.095***(16)***[~~(15)~~](a) and 18A.140. A federally funded time-limited employee shall not have the right of appeal to the Personnel Board except as provided by KRS 18A.095***(16)***[~~(15)~~](a) and 18A.140;

(16) "Federally funded position" means a full-time or a part-time position in which the unclassified employee is eligible for benefits at the same level as a classified employee in a permanent position;

(17) "Full-time employee" means an employee in a full-time position;

(18) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:

   (a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and

   (b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;

(19) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence;

(20) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;

(21) "Interim position" means a position established to address a one-time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;

(22) "Part-time employee" means an employee in a part-time position;

(23) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;

(24) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines*, written reprimands,* and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the *abridgment*[~~abridgement~~] or denial of other rights granted to state employees;

(25) "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;

(26) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(27) "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;

(28) ***"Qualifying" means the selection method type which results when the knowledge, skills, and abilities necessary for a job classification cannot be accurately measured by written, performance, or training and experience examinations and shall be reserved for classifications which require specialized training and experience or a professional license or certification;***

(29) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;

(30)[~~(29)~~] "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;

(31)[~~(30)~~] "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

(32)[~~(31)~~] "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(33)[~~(32)~~] "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(34)[~~(33)~~] "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

(35)[~~(34)~~] "Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095*(14)*[~~(13)~~];

(36)[~~(35)~~] "Seniority" means the total number of months of state service;

(37)[~~(36)~~] "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service; and

(38)[~~(37)~~] "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 3. KRS 18A.030 is amended to read as follows:

(1) The secretary shall be the executive and administrative head of the cabinet and shall supervise and control all examinations and work of the cabinet. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his staff:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

(d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;

(f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g) ***Propose selection method changes for any classification to the Personnel Board with documentation justifying the need for the selection method change. The Personnel Board shall, at its next regularly scheduled monthly meeting, either approve or reject any proposed selection method change. No classification shall have its selection method changed without final approval of the Personnel Board;***

(h) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(i)[~~(h)~~] Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

(j)[~~(i)~~] Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(k)[~~(j)~~] Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;

(l)[~~(k)~~] Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(m)[~~(l)~~] Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year; and

(n)[~~(m)~~] Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.

(3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The secretary shall keep records relative to employee turnover and report to the board, the Governor, and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.

(5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health and Family Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.

Section 4. KRS 18A.037 is amended to read as follows:

(1) The *secretary*[~~commissioner~~] shall develop and propose a new system of classification and compensation to be transmitted to the Legislative Research Commission by November 15, 1997. The system proposed by the *secretary*[~~commissioner~~] shall be developed using a nationally-recognized system for evaluating job requirements. The proposed system shall determine the requirements of each job classification by using factors such as, but not limited to, knowledge, skill, effort, responsibility, accountability, problem solving, discretion, challenge, and working conditions, to ensure pay equity as required by KRS Chapters 337 and 344.

(2) The *secretary*[~~commissioner~~] shall include, as a part of the proposal, estimated funding requirements for the implementation of the system.

Section 5. KRS 18A.040 is amended to read as follows:

The board and the *secretary*[~~commissioner~~] shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of KRS 18A.005 to 18A.200.

Section 6. KRS 18A.045 is amended to read as follows:

(1) There is hereby created a Personnel Board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of ***nine (9)***[~~seven (7)~~] members, five (5) of whom shall be appointed by the Governor as provided in KRS 18A.050. ***Four (4)***[~~Two (2)~~] members of the board shall be elected by classified employees as provided in KRS 18A.0551***, except for the two (2) newly established classified employee members who shall be appointed pursuant to KRS 18A.060 prior to July 1, 2008, and shall serve until the normal election cycle in 2010, at which time, they may seek election to the board***.

(2) ***Personnel Board members shall not accept gifts as provided in KRS 11A.045(1), benefit under any contract or agreement as provided in KRS 11A.040(4), or fail to disclose to other members of the board any direct or indirect conflict of interest as provided in KRS 11A.005(2)(c).***

(3) Any person retaliating in any manner and any person ordering retaliation against a classified employee or a member of his family because he has participated in an election to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of KRS 18A.990.

Section 7. KRS 18A.050 is amended to read as follows:

(1) Any person serving on the board on July 15, 1982, shall serve until the expiration of his current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed as provided in subsections (2) and (3) of this section, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in KRS 18A.045 and for the remainder of such term.

(2) Upon the expiration of the terms of office of the two (2) board members whose terms expire January 1, 1984, the Governor shall appoint two (2) members from a list of four (4) names submitted by the Legislative Research Commission. Thereafter, upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.

(3) Upon the expiration of the terms of office, of the members whose terms expire December 31, 1982, January 1, 1985, and January 1, 1986, the Governor shall appoint citizens at large who are not associated with state government in any manner. Thereafter upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.

(4) These five (5) appointments to the board shall be subject to confirmation by the Senate. If the Senate is not in session, these five (5) appointments shall be subject to review by the Interim Joint Committee on State Government which shall hold a public hearing and shall transmit its recommendations to the Senate.

(5) The initial election of classified employees to the board shall be held as provided in KRS 18A.0551. The two (2) classified employees initially elected to the board shall serve until July 1, 1986. ***The two (2) classified employees appointed to the board pursuant to subsection (1) of Section 6 of this Act shall serve on the board for a term of two (2) years and may seek re-election as provided in this section.*** Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected. If a vacancy occurs prior to the expiration of such term, the board shall fill the vacancy as provided in KRS 18A.060. ***For the election cycle beginning June 2010, four (4) classified employees shall be elected to the board to serve four (4) year terms. A classified employee shall not be eligible to seek re-election for more than three (3) successive terms on the board***[~~Effective for the election to be held in 1986 and all subsequent elections, a classified employee elected to the board shall not be eligible for reelection to the board for the four (4) year term succeeding the expiration of the term for which he shall have been elected. He shall also be ineligible to be appointed to fill a vacancy that occurs during the four (4) year term succeeding the expiration of the four (4) year term for which he shall have been elected. The classified employees elected to the board at the election held in 1982 shall be eligible for the 1986 election~~].

(6) If an elected board member accepts an unclassified position with state government, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in KRS 18A.060.

(7) If an elected board member accepts a classified position in a cabinet employing another board member or if, through no fault of his own, he is placed in that cabinet, his membership on the board shall not be terminated for the remainder of his term.

Section 8. KRS 18A.0551 is amended to read as follows:

(1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The board shall provide written notification of the date of the election to all classified employees on or before May 1; and

  (b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employee wishing to serve on the board shall notify the board, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, ***unique employee identification***[~~Social Security~~] number, job classification, and length of state employment. It shall also include the name and address of his current employer.

(2) On the last working day of May, the cabinet shall certify a payroll listing to the board that is current on such day and that contains the name, ***unique employee identification***[~~Social Security~~] number, and home address of every classified employee.

(3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the board shall mail to each classified employee whose name appeared on the payroll listing certified by the cabinet at his home address:

  (a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;

  (b) Instructions for voting;

  (c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and

  (d) Two (2) envelopes for returning the ballot. Prior to mailing the envelopes to a state employee, one (1) envelope shall be addressed by the board to the impartial third party selected by the board to receive, validate, and tabulate the ballots at a post office box rented by the board for the election. The upper left corner of the preaddressed or outer envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name and address. The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name, address, ***unique employee identification***[~~Social Security~~] number, the date, and to affix his signature.

(4) Upon receipt of his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:

(a) Vote for no more than ***four (4)***[~~two (2)~~] candidates;

(b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote;

(c) Print his name and address in the upper left corner of the preaddressed or outer envelope provided by the board;

(d) Print his name, address, ***unique employee identification***[~~Social Security~~] number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the board;

(e) Seal his ballot in the second or inner envelope; and

(f) Seal the second or inner envelope in the preaddressed or outer envelope, affix a stamp to it, and post it.

(5) The board shall:

(a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;

(b) Acquire a post office box to which all ballots shall be mailed; and

(c) Provide the impartial third party with a computer generated list of the names and ***unique employee identification***[~~Social Security~~] numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their ***unique employee identification***[~~Social Security~~] numbers. The names and ***unique employee identification***[~~Social Security~~] numbers listed on the list shall correspond to those appearing on the payroll certified by the cabinet under subsection (2) of this section.

(6) The impartial third party selected by the board shall collect all ballots, unopened, from the post office box. It shall:

(a) Examine the postmark on each envelope;

(b) Set aside, unopened, any preaddressed or outer envelope postmarked with a date subsequent to the deadline provided for by this section;

(c) Remove the second or inner envelope from the preaddressed or outer envelope;

(d) Verify the name and ***unique employee identification***[~~Social Security~~] number on the second or inner envelope by comparing them to the computer generated list of names and ***unique employee identification***[~~Social Security~~] numbers of eligible voters provided by the cabinet;

(e) Set aside, unopened, any second or inner envelope containing a name and ***unique employee identification***[~~Social Security~~] number that does not match the name and ***unique employee identification***[~~Social Security~~] number appearing next to the name on the computer generated list;

(f) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (b) and (e) of this subsection shall not be counted;

(g) Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the cabinet;

(h) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the board; and

(i) Certify to the board:

1. That the tabulation does not include two (2) or more ballots with the same ***unique employee identification***[~~Social Security~~] number;

2. The total number of ballots received;

3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;

4. The total number of ballots included in the tabulation; and

5. The total vote for each candidate.

(7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes, and other election materials provided for by this section shall be public record and open to inspection, but the home addresses and ***unique employee identification***[~~Social Security~~] numbers of the eligible employees and voters shall be redacted prior to public inspection or disclosure.

(8) The ***four (4)***[~~two (2)~~] candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(9) Successful candidates shall be notified by the board no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.

(10) State employees shall not use state materials or equipment for any purpose related to the election of classified employees to the board, nor shall any activity related to the election of a classified employee to the board be conducted during working hours.

Section 9. KRS 18A.075 is amended to read as follows:

Subject to the provisions of this chapter and KRS Chapter 13A, it shall be the duty of the board to:

(1) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants for the purpose of carrying out the provisions of this chapter;

(2) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18A.005 to 18A.200, and to require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A; and to make such investigation as may be requested by the General Assembly or the Governor and to report thereon;

(3) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, from unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause, and from officers or employees serving under the personnel systems created by this chapter, as provided by 1986 Acts Ch. 494;

(4) In cooperation with the secretary, promote public understanding of merit principles in government service;

(5) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel board;

(6) Make annual reports to the Governor, the Legislative Research Commission,[~~ and~~] the secretary ***of the Personnel Cabinet, and the co-chairs of the Interim Joint Committee on State Government prior to October 1. The board shall make***[~~ and~~] biennial reports to the General Assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy***. The board may request state agencies to provide information to assist the board in compiling the reports, which shall include the following:***

(a) The number of merit state employees at the beginning and the end of the reporting period;

(b) The total number of grievances filed and mediation requests made by merit employees during the reporting period;

(c) A tabulation of the stages in which employee complaints were resolved during the reporting period; and

(d) The average amount of time taken to resolve employee complaints during the reporting period, by stage.

(7) Advise the Governor and the secretary with respect to the administration of the personnel system created by this chapter;

(8) Consider and act on such matters as may be referred to the board by the secretary;[~~ and~~]

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the secretary in fostering the interest of institutions of learning and of civic, professional, and employee organizations in the improvement of personnel standards in the state service***; and***

(10) Make a determination, upon receiving notification of proposed classification selection method changes with proper documentation for the necessity for the change from the secretary, on classification selection method changes prior to those changes occurring. Upon receiving a classification selection method change proposals from the secretary, the board shall, at its next regularly scheduled monthly meeting, either approve or reject the proposed selection method change. No classification shall have its selection method changed without final approval from the board.

Section 10. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of such action or activity; and

4. The name of the parties involved;~~[and]~~

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee***; and***

(c) That the employee, upon receiving an intent to dismiss letter prior to the agency's final action, may be suspended by the appointing authority with pay.

(4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension, or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he ***or she*** received notification.

(10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.

(12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his

right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(14) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

(15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(16) An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).

(17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

(18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS

13B.030.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(28) ***After a final decision in a contested case has been rendered by the board or court, the board shall make the decision available to the public in electronic format on its Web site and shall organize the decisions according to the statutory basis for which the appeal was based.***

(29) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(30)[~~(29)~~] Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 11. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;

(j) For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;
3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;
4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;
5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and
6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated;[~~ and~~]

(k) ***The Personnel Cabinet shall promulgate administrative regulations to provide for alternative dispute resolution procedures, which shall include peer review and mediation. The Personnel Board shall make these procedures available to the parties to a Personnel Board appeal as soon as practicable after the appeal is filed with the board; and***

(l) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 12. KRS 18A.111 is amended to read as follows:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005 ***and this section***, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. The employee may be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

(2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.

(3) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise.

(4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.

(5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.

(6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

(7) A former unclassified employee under the provisions of KRS 18A.115 (d), (e), (f), (g), (h), and (i) shall serve an initial probationary period of twelve (12) months if the employee is appointed to a position in the classified service, unless that employee had previously had status in the classified service or had been separated from his or her previous unclassified position for at least one hundred eighty (180) days prior to the effective date of his or her appointment to the classified service.

Section 13. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employee in the classified service or member of the board or its executive director or secretary shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.

(4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid ***partisan*** public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy ***an elected office if***[~~a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and~~] the election is on a nonpartisan basis***, the officers or employees have complied with the requirements of KRS 61.080, and the duties of the elective office do not interfere with or create any conflicts of interest with the state duties of the officer or employee in the classified service. The employee shall give notice to the appropriate entity of his or her intent to run for elective office upon the employee filing to run***.

Section 14. KRS 18A.195 is amended to read as follows:

(1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Upon the written request of an employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201 et seq., an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(2) ***No executive officer or officer, as defined in Section 1 of this Act, shall be eligible to receive any level of block payment for compensatory leave hours except as provided in subsection (3) of this section.***

(3) Any employee who leaves state service shall be paid for the balance of unused compensatory time ***not to exceed two hundred forty (240) hours***.

Section 15. The secretary of the Personnel Cabinet shall study the feasibility of establishing and implementing procedures regarding background checks and employment reference checks for all executive branch applicants. The feasibility study shall include comprehensive administrative regulations for the procedures and guidelines for the cabinet to follow when performing background and reference checks, along with potential budget appropriation language for performing such checks. The secretary of the Personnel Cabinet shall report his findings to the chairmen of Interim Joint Committee on State Government no later than November 1, 2007.

HB 71, AN ACT designating bluegrass music as the official state music of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Bluegrass music is named and designated the official state music of Kentucky.

HB 78, AN ACT relating to peace officer certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.400 is amended to read as follows:

(1) The effective date of KRS 15.380 to 15.404 shall be December 1, 1998. All peace officers employed as of December 1, 1998, shall be deemed to have met all the requirements of KRS 15.380 to 15.404 and shall be granted certified status as

long as they*:*

(a) Remain in continuous employment of the agency by which they were employed as of December 1, 1998, ***and are employed within thirty (30) days by another law enforcement agency subject to the provisions of KRS 15.380 to 15.404;*** or

(b) Shall have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(1)(d) when seeking employment with another law enforcement agency.

(2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in KRS 15.380 to 15.404. Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.

(3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, Social Security number, background investigation, medical examination, psychological examination, and polygraph examination conducted for any person seeking certification pursuant to KRS 15.380 to 15.404 shall not be subject to disclosure.

Section 2. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate.

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed.

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he was employed or appointed and has no peace officer powers; or

2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she ***meets the requirements of subsection (1) of Section 1 of this Act or*** has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.380 to 15.404 and successfully completes in-service training as prescribed by the council, as follows:

1. No more than forty (40) hours if the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation; or

2. No more than eighty (80) hours if the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation.

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.

(5) "Revoked status" means that the officer has no enforcement powers and has been separated from an enforcement agency for any one (1) of the following reasons:

(a) Failure to meet or maintain training requirements;

(b) Willful falsification of information to obtain or maintain certified status;

(c) Certification was the result of an administrative error;

(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(e) Prohibition by federal or state law from possessing a firearm.

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

(7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

Section 3. KRS 15.392 is amended to read as follows:

(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.

(2) If the person has been separated for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.

(3) If the person has been separated for any other reason other than death, or one justifying revoked or denied status pursuant to KRS 15.386; and

(a) The person has successfully completed basic training at a school certified or recognized by the council ***or has been granted certification pursuant to subsection (1) of Section 1 of this Act***, the council shall place the certification on inactive status; or

(b) The person has not successfully completed basic training at a school certified or recognized by the council ***and fails to meet the requirements of subsection (1) of Section 1 of this Act***, the certification shall lapse.

(4) If the person has been separated due to death, the certification shall be retired.

(5) The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.

(6) The council shall not accept or hear complaints.

Section 4. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

(a) State Police officers, but for the commissioner of the State Police;

(b) City, county, and urban-county police officers;

(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

(d) State or public university safety and security officers appointed pursuant to KRS 164.950;

(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Office of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;

(h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and

(i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.

(2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers;

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and

(i) Investigators employed by the Office of Charitable Gaming in accordance with KRS 238.510***; and***

(j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;

(d) Jailers;

(e) Kentucky Horse Racing Authority security officers employed under KRS 230.240; and

(f) Commissioner of the State Police.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

Section 5. This Act shall be retroactive to July 1, 2004.

HB 99, AN ACT relating to promotional increments for career employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary. ***The secretary may approve the salary of a career employee who is promoted to a higher pay grade to the same salary level that would be available to new appointments in that grade, provided that all other employees in that classification in that county in the same class with similar qualifications are raised to that salary level***;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;

(j) For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;
3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;
4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;
5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and
6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

The Committee Substitute to **HB** 99 is as follows:

HB 99, AN ACT relating to promotional increments for career employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary***. The secretary may approve the salary of a full-time state employee with status who is promoted or reclassified to a higher pay grade to the same salary level that would be available to new appointments in that grade, provided that all other employees in that classification in that county in the same class with similar qualifications are raised to that salary level***;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;

(j) For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;

2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;

3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;

4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;

5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and

6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

The Committee Amendment No. 1 Title to **HB 99** is as follows:

HB 99, Amend the title to read as follows: "AN ACT relating to promotional increments for state employees.".

The Committee on Health and Welfare reported **HB 53** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 53, AN ACT relating to booster seats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor driven cycles; or

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) A person shall not sell any new motor vehicle in this state nor shall any person make application for registering a new motor vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) ***(a)*** Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(b) Any driver of a motor vehicle, when transporting a child under the age of eight (8) years who is between forty (40) inches and fifty-seven (57) inches in height, and weighing less than eighty (80) pounds, in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child booster seat.

(4) As used in this section***:***[~~,~~]

(a) "Child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards***; and***

(b) "Child booster seat" means a child passenger restraint system that meets the standards set forth in 49 C.F.R. Part 571 that is designed to elevate a child to properly sit in a federally approved lap and shoulder belt system.

(5) Failure to ***use***[~~wear~~] a child passenger restraint ***or a child booster seat*** shall not be considered as contributory negligence, nor shall such failure to ***use a***[~~wear said~~] passenger restraint system ***or booster seat*** be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7) A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.

(8) The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

The Committee Substitute to **HB 53** is as follows:

HB 53, AN ACT relating to booster seats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor driven cycles; or

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) A person shall not sell any new motor vehicle in this state nor shall any person make application for registering a new motor vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) ***(a)*** Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(b) Any driver of a motor vehicle, when transporting a child under the age of eight (8) years who is between forty (40) inches and fifty-seven (57) inches in height in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child booster seat.

(4) As used in this section***:***~~[,]~~

(a) "Child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards***; and***

(b) "Child booster seat" means a child passenger restraint system that meets the standards set forth in 49 C.F.R. Part 571 that is designed to elevate a child to properly sit in a federally approved lap and shoulder belt system.

(5) Failure to ***use***~~[wear]~~ a child passenger restraint ***or a child booster seat*** shall not be considered as contributory negligence, nor shall such failure to ***use a***~~[wear said]~~ passenger restraint system ***or booster seat*** be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7) A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.

(8) The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

Calendar

HB 120, 192, 202, HJR 14, HCR 28, 30, 33, HB 79, 63, 94, 16, and **226** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HCR 26, HB 16, 63, 79, 94, 120, 192, 202, HCR 28, 30, 33,** and **HJR 14** have been posted for passage in the Regular Orders of the Day for February 9, 2007. The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 226**

Representative McKee moved that the rules be suspended to act on a Resolution. Agreed.

Representative McKee moved the adoption of the following **HR 78**:

HR 78, A RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, for decades, tobacco production has been an important component of Kentucky's agricultural economy; and

WHEREAS, tobacco farming in Kentucky remains at a critical juncture in the aftermath of the federal buyout and the advent of a free market system; and

WHEREAS, growers face many issues, such as contending with labor shortages and costs, having to invest in infrastructure and machinery, improving growing techniques, acquiring quality land, facing contract prices that are too low, competing in a national and international market environment; and

WHEREAS, any continuing reduction in tobacco production will have a ripple effect throughout rural areas of Kentucky, affecting local economies, and ultimately leading to an erosion of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems that threatened Kentucky's tobacco economy and was instrumental in helping to resolve those problems; and

WHEREAS, Kentucky's tobacco industry and tobacco farmers remain in jeopardy because of the problems and concerns prevalent in the post-buyout era;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Tobacco Task Force be reauthorized through November 30, 2007, to help address the problems facing the tobacco industry in the state.

Section 2. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

There being no objection, **HR 78** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 388, by Representatives Clark and Jenkins: AN ACT relating to the sale of horses.

HB 389, by Representatives Miller, Siler, Butler, Watkins, Keene, Clark, Collins, Jenkins, Stacy, Westrom, Hoffman, Firkins, Draud, Greer, Horlander, and Weston: AN ACT relating to motor vehicle sales.

HB 390, by Representatives Greer, Tilley, L. Belcher, Moore, Miller, Pullin, Damron, Santoro, and Hoover: AN ACT relating to special Gold Star Mothers license plates.

HB 391, by Representative Clark: AN ACT relating to the sale of alcoholic beverages at state parks.

HJR 116, by Representatives Combs and Hall: A JOINT RESOLUTION naming the bridge on the new United States Highway 119 currently under construction in the town of Meta, in memory and honor of Private First Class Ottis Reed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 89, 144, 179, 215, HCR 18, HR 40**

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 137**, by Representative Yonts:

HB 137, On page 1, after line 11 insert the following:

"Section 2. KRS 224.60-130 is amended to read as follows:

(1) The Environmental and Public Protection Cabinet, Department for Environmental Protection, Division of Waste Management, shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks. The division may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the division for reimbursement from the fund for the performance of corrective action. At a minimum, the division shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the division shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The division may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the division [~~on or before January 15, 2008~~]. To insure cost effectiveness, the division shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the division;

(d) Establish a small operator assistance account within the fund which may be used by the division to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2013. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the division shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The division shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the division shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the division regarding the payment of claims from the fund in accordance with KRS 224.10-410 to 224.10-470;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the division, for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The division shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the division may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The division may collect soil or water samples or require storage tank owners or operators to split samples with the division for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the division to collect or split samples shall make the facility ineligible for fund participation;

(m) Have inspectors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the division schedule an inspector to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an inspector fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the division no later than ten (10) days prior to the proposed date that an inspector is not available on the proposed date, in which event a representative of the division shall contact the operator and schedule a new date. If no inspector is present at the rescheduled date, the removal may then proceed without penalty; and

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter.

~~[The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2008.]~~

(2) The division may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(3) The division may sue and be sued in its own name.

(4) The division may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The division may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (1)(c) of this section.

Section 3. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2) and all credits detailed in KRS 138.358 are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Department of Revenue at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at one and four-tenths cent ($0.014) for each gallon. Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the Department of Revenue's administration and enforcement of the gasoline and special

fuels tax and all other powers generally conveyed to the Department of Revenue by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Department of Revenue shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, ***2010***[~~2008~~], and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter." and

On page 1, line 12, delete "2" and insert "4", and

On page 1, on line 12, delete "prevented" and insert "exluded"; and

On page 1, line 12, delete "registering" and insert "fund eligibility for"; and

On page 1, line 13, before "since" insert "registered".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representative Clark

HB 5, Representatives Combs, Collins, Clark, Hall, Adams, and Edmonds

HB 23, Representative Tilley

HB 63, Representatives Edmonds and Tilley

HB 70, Representatives Marzian and Burch

HB 71, Representatives A. Smith and Hall

HB 75, Representatives Yonts, Gooch, Glenn, Keene, Floyd, and Arnold

HB 78, Representative Edmonds

HB 80, Representative Floyd

HB 86, Representative Embry

HB 93, Representative Henley

HB 94, Representatives Embry and Ford

HB 105, Representative Glenn

HB 109, Representative C. Belcher

HB 114, Representative L. Belcher

HB 124, Representatives Westrom, Rollins, Palumbo, and Santoro

HB 136, Representative Henderson

HB 156, Representatives Keene and Glenn

HB 159, Representative DeCesare

HB 165, Representative Napier

HB 180, Representative Edmonds

HB 186, Representative Hall

HB 187, Representatives C. Belcher, L. Belcher, Rollins, Denham, Edmonds, Thompson, Rudy, Turner, Comer, and Hoover

HB 224, Representative Henley

HB 225, Representatives Dossett, Greer, and Stein

HB 231, Representatives Henderson and Nesler

HB 291, Representative Clark

HB 296, Representative Riggs

HB 299, Representatives Siler and Wuchner

HB 305, Representatives Crenshaw and Clark

HB 310, Representatives Crimm and Jenkins

HB 326, Representatives Nelson and C. Belcher

HB 330, Representative C. Belcher

HB 338, Representative S. Lee

HB 344, Representative Meeks

HB 352, Representatives Gooch, C. Belcher, Crimm, Harmon, Owens, Yonts, Weston, Nelson, and Rand

HB 354, Representative Wuchner

HB 366, Representatives Comer, Higdon, and Bell

HR 78, Representative Napier

Announcements

Majority Caucus, Press Conference, upon adjournment

Adjournment

Representative Adkins moved to adjourn until the hour of 9:00 a.m. on Friday, February 9, 2007.

The motion that the House adjourn until 9:00 a.m., Friday, February 9, 2007, was adopted by voice vote.

FRIDAY, FEBRUARY 9, 2007

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Larry Sivis, First Christian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of February 8, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Introduction of Bills and Resolutions

HB 392, by Representative Koenig: AN ACT relating to teacher advancement.

Senate Message

Announcing passage of SB 34 and 88. (9:10 a.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 47**

Appropriations and Revenue: **HB 238, 292, 349, 384**

Banking and Insurance: **HB 254, 366, 377**

Education: **HB 346, 373**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 263, 374**

Health and Welfare: **HB 282, 288, 298**

Judiciary: **HB 241, 248, 264, 271, 272, 275, 308, 363, 364, 365, 368**

Licensing and Occupations: **HB 259, 340, 367, 388, 391**

Local Government: **HB 242, 243, 245, 307, 372**

Natural Resources and Environment: **HB 333**

Seniors, Military Affairs and Public Safety: **HB 342, 390**

State Government: **HB 220, 294, 325**

Tourism Development and Energy: **HB 261**

Transportation: **HB 266, 268, 284, 370, 389, HJR 116**

House Floor: **HR 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 108, 109, 111, 112, 113, 114, 115**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Local Government: **HB 201, 177, 157, 116, 115**

Education: **HB 197, 208, 210, 230, HJR 7**

Calendar

HB 69, 136, 137, 186, 5, 102, 123, HCR 12, HJR 23, HB 23, 62, 71, 78, 99, and **53** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 53, 62, 69, 71, 78, 99, 102, 123, 136, 137, HCR 12** and **HJR 23** have been posted for passage in the Regular Orders of the Day for February 12, 2007.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 5, 23**

Orders of the Day

HB 192 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 192** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 9, 2007, roll call on **HB 192** - Appendix.)

HB 192 was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 192** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 14, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of the Committee Substitute to **HJR 14**. Agreed.

Representative Pullin moved that **HJR 14,** by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 9, 2007, roll call on **HJR 14** - Appendix.)

HJR 14, by way of Committee Substitute, was adopted.

Representative Pullin moved the adoption of Committee Amendment No. 1 Title to **HJR 14**. Agreed.

Representative Pullin moved that the vote by which **HJR 14**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 28 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 28** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 9, 2007, roll call on **HCR 28** - Appendix.)

HCR 28 was adopted.

Representative Adkins moved that the vote by which **HCR 28** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 30 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 30** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 9, 2007, roll call on **HCR 30** - Appendix.)

HCR 30 was adopted.

Representative Adkins moved that the vote by which **HCR 30** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 33 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 33** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 9, 2007, roll call on **HCR 33** - Appendix.)

HCR 33 was adopted.

Representative Adkins moved that the vote by which **HCR 33** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Nesler moved the adoption of the following **Legislative Citation No. 17**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Brady Matthew Link, Sr. and joins with Representative Fred Nesler in expressing deepest sympathy to the Link Family and all who share in the loss of this esteemed gentleman on February 4, 2007. A resident of Dover, Tennessee, and the father of Graves County School District Superintendent Brady Link, he was the son of James Monroe Link, Jr. and Clarice Ann Dennis Link, and the cherished husband of Patricia Quinn Link, who preceded him in death. He is further survived by his sons, James N. Link and Harold Link; daughters, Penny Mathis and Tammy Decker; sisters, Carlene Sexton, Geneva Odom and Margie Anglin; eight grandchildren; five great-grandchildren; and, a host of other family members, friends and loved ones. This beloved gentleman, a retired Fort Campbell civil servant; a faithful member of Bear Springs Baptist Church; and, a fifty-year member of the Iron Mountain Masonic Lodge, is remembered on this day for the many and generous contributions he made to his family and community. Brady Matthew Link, Sr. will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this ninth day of February, in the year two thousand and seven.

Legislative Citation No. 17 was adopted without objection.

Representative Henley moved the adoption of the following **HR 80**:

HR 80, A RESOLUTION requesting that Kentuckians observe "Spay Day USA" 2007 by having their dogs and cats spayed or neutered, and by contributing to charitable organizations that provide spay and neuter services.

WHEREAS, cats and dogs provide companionship to and share the homes of over 63 million people in the United States; and

WHEREAS, humane societies and animal shelters in the United States must euthanize approximately 4 million cats and dogs each year; and

WHEREAS, although many cats and dogs are healthy and worthy of adoption, euthanasia must take place because of the lack of critical resources such as money, space, and good adoptive homes; and

WHEREAS, the problem of pet overpopulation costs taxpayers of this country millions of dollars annually through animal control programs aimed at coping with millions of homeless cats and dogs; and

WHEREAS, spaying and neutering cats and dogs has been shown to drastically reduce cat and dog overpopulation, plus improve their health; and

WHEREAS, veterinarians, humane societies, shelters, animal rescue organizations, national and local animal protection organizations, and private citizens worked together to ensure the spaying and neutering of more than 141,000 companion animals through "Spay Day USA" in 2006; and

WHEREAS, citizens of this Commonwealth should prepare for and take note of "Spay Day USA" 2007 which is planned this year on February 27;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does on this day call upon the people of Kentucky to observe "Spay Day USA" by having their cats and dogs spayed and neutered and by contributing to charitable organizations that provide spay and neuter services.

Section 2. This honorable body also recognizes the many humane societies, shelters, and animal rescue organizations in Kentucky for their efforts in spreading the word about the need for cats and dogs to be spayed and neutered.

Section 3. When the House of Representatives adjourns this day, it does so in recognition of the importance of spaying and neutering cats and dogs, and affirms February 27, 2007 to be "Spay Day USA."

Section 4. The Clerk of the House of Representatives is directed to send a copy of this Resolution to Ms. Kathy Hodge, Executive Director, Humane Society of Calloway County for appropriate distribution.

There being no objection, **HR 80** was adopted.

Representative Hall moved that the rules be suspended to act on **HJR 72** and **HJR 74**.

The Speaker said that **HJR 72** and **74** were referred to the Committee on Transportation on February 7, 2007.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 393, by Representatives Jenkins, Brinkman, Weston, Riner, Burch, Meeks, Riggs, DeWeese, Firkins, Crimm, Marzian, Clark, Owens, Miller, and Horlander: AN ACT relating to economic development projects located in consolidated local governments.

HB 394, by Representative Jenkins: AN ACT relating to ophthalmic dispensers.

HB 395, by Representatives Owens and Cherry: AN ACT relating to candidates for statewide office and declaring an emergency.

HB 396, by Representatives Jenkins and Combs: AN ACT relating to dating violence.

HB 397, by Representative Gray: AN ACT relating to coroners.

HB 398, by Representative Gray: AN ACT relating to workers' causes of action.

HB 399, by Representatives McKee and Pasley: AN ACT relating to fertilizer.

HB 400, by Representative Wayne: AN ACT relating to the Kentucky State Fair Board.

HB 401, by Representative Denham: AN ACT relating to life insurance.

HB 402, by Representative Firkins: AN ACT relating to pari-mutuel taxes.

HB 403, by Representatives Stein and Wilkey: AN ACT relating to consortium.

HCR 117, by Representative Westrom: A CONCURRENT RESOLUTION urging the federal and state governments to take actions to ensure access to health benefit coverage for Kentucky's uninsured children.

HJR 118, by Representatives Owens and Crimm: A JOINT RESOLUTION recognizing the third week in October as "Conflict Resolution Week in Kentucky."

HJR 119, by Representative Cherry: A JOINT RESOLUTION naming the Danville/U.S. 127 Bypass from Harrodsburg Road to Stanford Road in the city of Danville in honor of former Danville City Commissioner, Mayor, and State Representative John W. D. Bowling.

HCR 120, by Representatives Wayne, Jenkins, Marzian, Owens, Clark, Miller, Crimm, Firkins, DeWeese, Riner, Weston, Riggs, Horlander, Bratcher, and Brinkman: A CONCURRENT RESOLUTION commemorating the 100th anniversary of the United Parcel Service, Inc. (UPS) and recognizing its contributions to the people of the Commonwealth.

Motions, Petitions, and Communications (Continued)

Representative Riner moved that **HB 286** be withdrawn. Agreed.

Representative Denham moved that **HB 81** be withdrawn. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HB 355, 281, 273, 240**

Labor and Industry: **HB 305**

Seniors, Military Affairs and Public Safety: **HB 280**

Appropriations and Revenue: **HB 291, 347, 75**

Health and Welfare: **HB 352, 152, 362, 345**

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 62**, by Representative Yonts:

HB 62, On page 28, line 21, insert "***by the last administrative or judicial body to which the case has been appealed***" after the word "***rendered***"; and

On page 28, line 21, delete "***by the board or court***".

Floor Amendment No. 1 to **HB 16**, by Representative Montell:

HB 16, On page 1, line 4, after "***single incident***" by inserting "***and who did not serve after entry of a judgment of conviction a sentence of incarceration for the felony or felonies***".

Floor Amendment No. 1 to **HB 53**, by Representative Damron:

HB 53, On page 2, below line 25, to insert the following:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not

more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50). ***This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.***

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs ***pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs***.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representatives B. Smith, Gooch, Bell, Spencer, Webb, Thompson, Hall, Ballard, Adams, Nesler, Pullin, Combs, Gray, Henderson, Vincent, Hoover, Ford, McKee, Collins, Edmonds, Yonts, Weston, Damron, Graham, Moberly, J. Lee, Pasley, Richards, and Wilkey

HB 6, Representative Watkins

HB 7, Representative Vincent

HB 16, Representative Westrom

HB 23, Representatives Wuchner and Graham

HB 62, Representative Embry

HB 63, Representative Sims

HB 64, Representatives Clark, Marzian, C. Belcher, Weston, Rand, and Simpson

HB 70, Representative Westrom

HB 78, Representative Greer

HB 79, Representative Hall

HB 87, Representative Osborne

HB 94, Representatives Harmon and Clark

HB 103, Representatives Hoover, Glenn, Embry, Butler, Siler, Hall, Henley, Kerr, Mobley, Comer, Pullin, Rader, Miller, Simpson, Watkins, Koenig, McKee, Edmonds, and Crimm

HB 120, Representatives Horlander and Henderson

HB 132, Representative Hoffman

HB 140, Representative Hall

HB 141, Representative Westrom

HB 156, Representative Thompson

HB 186, Representative Combs

HB 187, Representative Rader

HB 237, Representative Crenshaw

HB 263, Representative Hall

HB 291, Representative Wuchner

HB 305, Representatives Hall and Watkins

HB 309, Representatives Arnold, Riner, Owens, and Wilkey

HB 317, Representative Hoffman

HB 318, Representative Horlander

HB 328, Representative Koenig

HB 332, Representatives C. Belcher and Rollins

HB 337, Representative Brinkman

HB 339, Representatives Rader and Hoover

HB 343, Representatives Floyd and Embry

HB 345, Representative Rollins

HB 348, Representative Dedman

HB 352, Representatives Glenn, Wuchner, and Edmonds

HB 354, Representative Osborne

HB 362, Representative B. Smith

HB 366, Representatives Damron, Harmon, B. Smith, and Fischer

HB 377, Representative Miller

HR 112, Representative Palumbo

HR 113, Representative Palumbo

HR 114, Representative Palumbo

Announcements

Budget Review Subcommittee on Transportation, no meeting today

Budget Review Subcommittee on Transportation, 2:00 p.m., Monday, February 12, 2007

Majority Caucus, 3:00 p.m., Monday, February 12, 2007 canceled

Adjournment

Representative Adkins moved to adjourn until the hour of 4:00 p.m. on Monday, February 12, 2007.

The motion that the House adjourn until 4:00 a.m., Monday, February 12, 2007, was adopted by voice vote.

MONDAY, FEBRUARY 12, 2007

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Ms. Miriam Picconi, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representative Thompson.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 9, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Burch moved that he be recorded as voting "yea" on **HB 192**. Agreed.

Representative Moore moved that he be recorded as voting "yea" on **HCR 30**. Agreed.

Introduction of Bills and Resolutions

HB 404, by Representative Gray: AN ACT relating to executive branch budget projects, and declaring an emergency.

HB 405, by Representative Owens: AN ACT relating to elections.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 289**

Appropriations and Revenue: **HB 249, 257, 324, 330, 335, 339, 353, 354, 393, 402**

Banking and Insurance: **HB 239, 260, 344, HCR 79**

Economic Development: **HB 313**

Education: **HB 279, 299, 380, HCR 53, 110**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 251, 300, 341, 387**

Health and Welfare: **HB 10, 290, 314, 378, 383**

Judiciary: **HB 274, 320, 334, 338, 343, 348, 369, 382, 403**

Labor and Industry: **HB 246, 328, 379, 398**

Licensing and Occupations: **HB 394**

Local Government: **HB 237, 297, 357, 371, 375, 376**

Natural Resources and Environment: **HB 385**

State Government: **HB 267, 318, 331, 386, 395, 400, HJR 77, 118**

Transportation: **HB 253, 329, 336, 381, HJR 119**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Licensing and Occupations: **HB 46, 138, 124, 367, 388, 278, 394**

Natural Resources and Environment: **HB 216, HR 73**

Judiciary: **HB 140, 175, 125, 7, 214, 67, 76, 139, 187, 190, 191, 198, 200, 205, 264, 272, 275, 302, 309, 358, 368, HJR 5**

Banking and Insurance: **HB 18, 83, 126, 250, 366, 377**

Orders of the Day

HB 71 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Edmonds moved that **HB 71** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 12, 2007, roll call on **HB 71** - Appendix.)

HB 71 was passed and the title agreed to.

Representative Edmonds moved that the vote by which **HB 71** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 102, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of the Committee Substitute to **HB 102**. Agreed.

Representative Pullin moved that **HB 102**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 12, 2007, roll call on **HB 102** - Appendix.)

HB 102, by way of Committee Substitute, was passed and the title agreed to.

Representative Pullin moved that the vote by which **HB 102**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 23 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HJR 23** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 12, 2007, roll call on **HJR 23** - Appendix.)

HJR 23 was adopted.

Representative Ballard moved that the vote by which **HJR 23** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 26 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 26** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 12, 2007, roll call on **HCR 26** - Appendix.)

HCR 26 was adopted.

Representative Adkins moved that the vote by which **HCR 26** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 63, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 63**. Agreed.

Representative Cherry moved that **HB 63**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 12, 2007, roll call on **HB 63** - Appendix.)

HB 63, by way of Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 63**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 12, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HCR 12**. Agreed.

Representative Gray moved that **HCR 12**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 12, 2007, roll call on **HCR 12** - Appendix.)

HCR 12, by way of Committee Substitute, was adopted.

Representative Gray moved the adoption of Committee Amendment No. 1 Title to **HCR 12**. Agreed.

Representative Gray moved that the vote by which **HCR 12**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **HB 5, 258, 370, 389,** and **316**. Agreed.

Representative Palumbo moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 121, by Representative Palumbo: A RESOLUTION proclaiming February 12, 2007 as Kentucky Association of Manufacturers Day throughout the Commonwealth of Kentucky.

Motions, Petitions, and Communications (Continued)

Representative Palumbo moved the adoption of the following **HR 121**:

HR 121, A RESOLUTION proclaiming February 12, 2007, as Kentucky Association of Manufacturers Day throughout the Commonwealth of Kentucky.

WHEREAS, the Kentucky Association of Manufacturers is a statewide association dedicated to ensuring a healthy business climate in which industry can compete on a local, national, and global basis, and enhance the quality of life for all citizens of the Commonwealth; and

WHEREAS, the member companies of the Kentucky Association of Manufacturers and the citizens of the Commonwealth of Kentucky have benefited from the extraordinary accomplishments of the Kentucky Association of Manufacturers since its inception in 1911; and

WHEREAS, the Kentucky Association of Manufacturers' directors, member companies, and staff are committed to responsible business practices, professionalism, and high ethical standards worthy of commendation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives proclaims Monday, February 12, 2007, as Kentucky Association of Manufacturers Day in recognition of its 96 years of sustained service to manufacturing, business, industry, and the people of the

Commonwealth.

Section 2. The House of Representatives commends and recognizes the Kentucky Association of Manufacturers for conducting, on February 12, 2007, in the state's capital city of Frankfort, the event known as Prosperous Kentucky 2007, the first ever statewide manufacturing summit and think-tank to generate ideas on how to grow Kentucky's manufacturing industry.

Section 3. The House of Representatives encourages citizens from all walks of life to salute and participate with the Kentucky Association of Manufacturers in its initiative of reaching out to leaders in business, politics, government, education, various associations, chambers of commerce, economic development, the media, and the general public to put Kentucky on a new course of economic development.

Section 4. The Clerk of the House of Representatives is hereby authorized and directed to transmit a copy of this Resolution to Andrew Meko, Kentucky Association of Manufacturers President, 2303 Greene Way, Louisville, Kentucky 40220.

There being no objection, **HR 121** was adopted.

Representative Wayne moved that **HB 104** be withdrawn. Agreed.

Representative Rollins moved that **HR 58** be withdrawn. Agreed.

Representative Rudy moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 406, by Representative Westrom: AN ACT relating to diabetes.

HB 408, by Representative Collins: AN ACT relating to drug testing.

HB 409, by Representatives Stacy, Hall, Nesler, and Adkins: AN ACT relating to interscholastic athletic programs.

HB 410, by Representatives Marzian and Stein: AN ACT relating to the Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program, and declaring an emergency.

HB 411, by Representative Wayne: AN ACT relating to taxation.

HB 412, by Representatives Weston, Firkins, Jenkins, Keene, Miller, Owens, Burch, Clark, and Riggs: AN ACT relating to firefighters.

HB 413, by Representative Simpson: AN ACT relating to tax increment financing.

HB 414, by Representative Cherry: AN ACT relating to retirement.

HB 415, by Representative Clark: AN ACT relating to elections and declaring an emergency.

HB 416, by Representatives Jenkins and Brinkman: AN ACT relating to authorization of the capital project to expand the University of Louisville Stadium, appropriating funds therefor, and declaring an emergency.

HB 417, by Representative Gooch: AN ACT relating to dust.

HB 418, by Representatives Graham, Rollins, Montell, Hoffman, Adams, and Dedman: AN ACT relating to retirement.

HB 419, by Representatives Moberly and Richards: AN ACT relating to the funding of public employee retirement systems, making an appropriation therefor, and declaring an emergency.

HB 420, by Representative Stein: AN ACT relating to crimes and punishments.

HB 421, by Representative Stein: AN ACT relating to civil actions.

HB 422, by Representative Stein: AN ACT relating to civil actions.

HB 423, by Representative Stein: AN ACT relating to courts.

HB 424, by Representative Stein: AN ACT relating to crimes and punishments.

HB 425, by Representative Stein: AN ACT relating to courts.

HB 426, by Representative Wilkey: AN ACT relating to supersedeas bonds.

HB 427, by Representative Harmon: AN ACT relating to the certification of court security officers.

HB 428, by Representative Hoffman: AN ACT relating to motor vehicle insurance.

HB 429, by Representative Hoffman: AN ACT relating to the Kentucky Community and Technical College System and University of Kentucky employees.

HB 430, by Representative Combs: AN ACT relating to consumer telemarketing.

HB 431, by Representatives Burch, Wuchner, and DeWeese: AN ACT relating to health data collection.

HB 432, by Representative Koenig: AN ACT relating to presidential electors.

HB 433, by Representative Denham: AN ACT relating to telephone solicitation.

HB 434, by Representative Burch: AN ACT relating to civil actions.

HCR 122, by Representatives Marzian and Stein: A CONCURRENT RESOLUTION opposing the creation of a national identification card.

HR 123, by Representatives Wuchner and Santoro: A RESOLUTION recognizing the third Saturday in May as Friedreich's Ataxia Awareness Day.

HR 124, by Representative Comer: A RESOLUTION honoring and commending Dr. Lawrence P. Emberton.

HR 125, by Representatives Hall and Edmonds: A RESOLUTION urging the United States Congress to pass, and the President of the United States to sign, legislation to improve the Medicare prescription drug benefit program.

HCR 126, by Representatives Hoffman, Hall, and Rader: A CONCURRENT RESOLUTION recognizing ConnectKentucky as the Commonwealth's information technology resource.

HCR 127, by Representatives McKee and Clark: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study how workers who are not citizens of the United States affect Kentucky's labor market and how the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could be utilized to address the issue of labor shortages in Kentucky.

HR 128, by Representative Rollins: A RESOLUTION adjourning the House of Representatives in honor of Ronnie Dunn, upon her election as International President of Optimist International.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Seniors, Military Affairs and Public Safety: **HR 61**

Labor and Industry: **HB 296, 219**

Health and Welfare: **HB 196**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 374**

Agriculture and Small Business: **HB 93, 231, 350, HCR 47, HB 270**

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 53**, by Representative Harmon:

HB 53, On page 2, after line 25, by inserting the following:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3)***(a)*** shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

(29) Any person who violates the provisions of subsection (3)(b) of Section (1) of this Act, shall be fined fifty dollars ($50) unless, within thirty (30) days of the violation, the person:

(a) Presents evidence that a child booster seat that meets the requirements of subsection (4)(b) of Section 1 of this Act has been installed in the vehicle. If sufficient evidence is presented, then the violation shall be nullified; or

(b) Presents evidence that his or her family income is below two hundred fifty percent (250%) of the federal poverty level. If sufficient evidence is presented, then:

1. The violation shall be nullified; or

2. The person shall be provided a child booster seat at no charge. A person who receives a child booster seat under this paragraph and has an additional violation within a six (6) month period shall be fined fifty dollars ($50).

(30) All fines collected for violations under subsection (29) of this section shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "child booster seat fund." The child booster seat fund shall be used exclusively by the Transportation Cabinet to provide booster seats to persons in accordance with subsection (29)(b) of this section.".

Floor Amendment No. 3 to **HB 53**, by Representative Harmon:

HB 53, On page 2, after line 25, by inserting the following:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3)***(a)*** shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

(29) Any person who violates the provisions of subsection (3)(b) of Section (1) of this Act, shall be fined fifty dollars ($50) unless, within thirty (30) days of the violation, the person:

(a) Presents evidence that a child booster seat that meets the requirements of subsection (4)(b) of Section 1 of this Act has been installed in the vehicle. If sufficient evidence is presented, then the violation shall be nullified; or

(b) Presents evidence that his or her family income is below two hundred fifty percent (250%) of the federal poverty level. If sufficient evidence is presented, then:

1. The violation shall be nullified; or

2. The person shall be provided a child booster seat at no charge. A person who receives a child booster seat under this paragraph and has an additional violation within a six (6) month period shall be fined

fifty dollars ($50).

(30) All fines collected for violations under subsection (29) of this section shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "child booster seat fund." The child booster seat fund shall be used exclusively by the Transportation Cabinet to provide booster seats to persons in accordance with subsection (29)(b) of this section.".

Floor Amendment No. 1 to **HB 120**, by Representative Wayne:

HB 120, On page 12, line 24, after "*required fee*" by inserting "*of at least fifty dollars ($50)*" in lieu thereof.

On page 12, lines 24 and 25, by deleting "*according to authorization in the state budget document*" and inserting "*by promulgation of administrative regulation*" in lieu therof.

Floor Amendment No. 1 to **HB 78**, by Representative Greer:

HB 78, On page 1, line 7, to delete "*thirty (30)*" and to insert in lieu thereof "*sixty (60)*".

Floor Amendment No. 4 to the Committee Substitute to **HB 53**, by Representative Damron:

HB 53, On page 2, below line 25, to insert the following:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both.

For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50). ***This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.***

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs ***pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, fee imposed pursuant to KRS 24A.1765, or***

any other additional fees or costs.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county."

Floor Amendment No. 5 to the Committee Substitute to **HB 53**, by Representative Harmon:

HB 53, On page 2, after line 25, by inserting the following:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor

more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3)***(a)*** shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

(29) Any person who violates the provisions of subsection (3)(b) of Section (1) of this Act, shall be fined fifty dollars ($50) unless, within thirty (30) days of the violation, the person:

(a) Presents evidence that a child booster seat that meets the requirements of subsection (4)(b) of Section 1 of this Act has been installed in the vehicle. If sufficient evidence is presented, then the violation shall be nullified; or

(b) Presents evidence that his or her family income is below two hundred fifty percent (250%) of the federal poverty level. If sufficient evidence is presented, then:

1. The violation shall be nullified; or

2. The person shall be provided a child booster seat at no charge and the violation shall be nullified. A person who receives a child booster seat under this paragraph and has an additional violation within a six (6) month period shall be fined fifty dollars ($50).

(30) All fines collected for violations under subsection (29) of this section shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "child booster seat fund." The child booster seat fund shall be used exclusively by the Transportation Cabinet to provide booster seats to persons in accordance with subsection (29)(b) of this section.".

Floor Amendment No. 6 to **HB 53**, by Representative Harmon:

HB 53, On page 2, after line 25, by inserting the following:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3)*(a)* shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

 (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

 (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

(29) Any person who violates the provisions of subsection (3)(b) of Section (1) of this Act, shall be fined fifty dollars ($50) unless, within thirty (30) days of the violation, the person:

 (a) Presents evidence that a child booster seat that meets the requirements of subsection (4)(b) of Section 1 of this Act has been installed in the vehicle. If sufficient evidence is presented, then the violation shall be nullified; or

 (b) Presents evidence that his or her family income is below two hundred fifty percent (250%) of the federal poverty level. If sufficient evidence is presented, then:

  1. The violation shall be nullified; or

  2. The person shall be provided a child booster seat at no charge and the violation shall be nullified. A person who receives a child booster seat under this paragraph and has an additional violation within a six (6) month period shall be fined fifty dollars ($50).

(30) All fines collected for violations under subsection (29) of this section shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "child booster seat fund." The child booster seat fund shall be used exclusively by the Transportation Cabinet to provide booster seats to persons in accordance with subsection (29)(b) of this section.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representatives Graham and Edmonds

HB 4, Representatives Hall and Edmonds

HB 5, Representatives Miller and Stacy

HB 53, Representative Palumbo

HB 63, Representatives Palumbo, Hoover, and McKee

HB 64, Representative Owens

HB 70, Representatives Hoffman, Meeks, Wayne, Graham, Jenkins, Gray, Yonts, Glenn, Owens, and Webb

HB 71, Representative Comer

HB 124, Representative Osborne

HB 125, Representative Owens

HB 136, Representative Mobley

HB 152, Representative Hall

HB 156, Representatives Miller, Firkins, Rollins, Burch and Weston

HB 187, Representative Riggs

HB 197, Representative Harmon

HB 218, Representative Wuchner

HB 231, Representative Santoro

HB 238, Representative Wuchner

HB 244, Representative Hall

HB 305, Representatives Nelson, A. Smith, Glenn, Cherry, Graham, Stacy, Stein, Nesler, Burch, Wayne, Marzian, Hoffman, and Meeks

HB 309, Representative Draud

HB 344, Representative Owens

HB 352, Representative Mobley

HB 362, Representative Graham

HB 366, Representative Upchurch

HB 376, Representative Denham

HB 378, Representative Burch

HB 385, Representative Rollins

HB 386, Representative Rader

HB 388, Representative Keene

HB 393, Representatives Bratcher and Osborne

HJR 15, Representatives Glenn, Stein, Westrom, Hoffman, and Crenshaw

The following members filed a request to have their names withdrawn as co-sponsors of Bills:

HB 278, Representative Wilkey

HB 231, Representative Henderson

Announcements

Committee on Elections, Constitutional Amendments and Intergovernmental Affairs, 8:30 a.m., Tuesday, February 13, 2007, Room 171

Committee on Appropriations and Revenue, 10:00 a.m., Tuesday, February 13, 2007, Room 131

Committee on Appropriations and Revenue, upon adjournment, Tuesday, February 13, 2007

Committee on Appropriations and Revenue, 10:00 a.m., Wednesday, February 14, 2007

Committee on Education, 7:57 a.m., Tuesday, February 13, 2007, Room 129

Majority Caucus, upon adjournment, Wednesday, February 14, 2007, Room 171

Committee on Judiciary, 12:00 noon, Wednesday, February 14, 2007

Committee on Judiciary, upon adjournment, Thursday, February 15, 2007

Committee on Transportation, 12:00 noon, Tuesday, February 13, 2007

Committee on Local Government, 12:00 noon, Tuesday, February 13, 2007, Room 171

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Tuesday, February 13, 2007.

The motion that the House adjourn until 2:00 a.m., Tuesday, February 13, 2007, was adopted by voice vote.

TUESDAY, FEBRUARY 13, 2007

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Paul Prather, Bethesda Church, Mt. Sterling, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of February 12, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Webb moved that she be recorded as voting "yea" on **HB 71, 102, HJR 23, HCR 26,** and **HCR 12**. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 63**. Agreed.

Senate Message

Announcing passage of **SB 3, 4, 55, 60,** and **SJR 16**. (2:04 PM)

Introduction of Bills and Resolutions

HB 407, by Representatives Richards and Wilkey: AN ACT relating to the taxation of recreational vehicles.

HB 435, by Representatives L. Belcher, Rand, Clark, and Montell: AN ACT relating to water.

HB 436, by Representative Glenn: AN ACT relating to the starting time of the school day for high schools.

HB 437, by Representative Glenn: AN ACT relating to unsolicited facsimile transmissions.

HB 438, by Representative Spencer: AN ACT relating to crimes and punishments.

HB 439, by Representative Vincent: AN ACT relating to executive branch ethics.

HB 441, by Representative Denham: AN ACT relating to sales and use tax.

HB 440, by Representative L. Belcher: AN ACT relating to school attendance.

HB 442, by Representative Baugh: AN ACT relating to brownfields.

HB 443, by Representative Thompson: AN ACT relating to the collection of delinquent taxes.

HB 444, by Representatives Weston, Marzian, Jenkins, and Clark: AN ACT relating to planning and zoning in counties containing a city of the first class or consolidated local government.

HB 445, by Representative Embry: AN ACT relating to health care data.

HB 446, by Representative Thompson: AN ACT relating to property valuation administrators' offices and making an appropriation therefor.

HB 447, by Representatives Henderson, Jenkins, and Marzian: AN ACT relating to special firefighters.

HB 448, by Representatives Arnold and McKee: AN ACT relating to special districts.

HB 449, by Representatives Denham, McKee, and Pasley: AN ACT relating to weights and measures.

HB 450, by Representative Riner: AN ACT relating to animal cruelty.

HB 451, by Representative Crimm: AN ACT relating to annexation.

HB 452, by Representatives Yonts and Nelson: AN ACT relating to workers' compensation.

HB 453, by Representative DeCesare: AN ACT relating to prevailing wage.

HB 454, by Representatives A. Smith, Combs, and Nelson: AN ACT relating to shippers, transporters, and receivers of coal transported on public highways.

HB 455, by Representative DeCesare: AN ACT relating to prevailing wage.

HB 456, by Representative DeCesare: AN ACT relating to prevailing wage.

HB 457, by Representative DeCesare: AN ACT relating to the prevailing wage.

HB 458, by Representative DeCesare: AN ACT relating to eminent domain.

HR 129, by Representative Wilkey: A RESOLUTION adjourning the House of Representatives in commemoration of February as the 2007 Career and Technical Education Month.

HJR 130, by Representative Webb: A JOINT RESOLUTION relating to Emergency Action Plans for high and significant hazard dams.

HCR 131, by Representative Webb: A CONCURRENT RESOLUTION establishing a task force on the disposal of electronic waste.

HR 132, by Representative Couch: A RESOLUTION honoring Kentucky Vehicle Enforcement Officer Landry Collett for receiving both state and national accolades for the apprehension of impaired drivers.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 399, HCR 127**

Appropriations and Revenue: **HB 413, 416, 419**

Economic Development: **HCR 120**

Education: **HB 429, HCR 75**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 405, 415**

Health and Welfare: **HB 406, HCR 76, 117**

Judiciary: **HB 396, 420, 421, 422, 423, 424, 425, 426**

Labor and Industry: **HB 433**

Local Government: **HB 397, HCR 70**

State Government: **HB 414, 418, HCR 107, HR 123**

Tourism Development and Energy: **HB 430, HCR 126**

House Floor: **HR 124, 125, 128**

Report of Committees

The Committee on Committees has met and reports the following committee change:

Appoint the following member to:

Appropriations and Revenue

Representative Webb - First Vice Chair

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 3** and **HB 70,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT proposing to amend Section 77 of the Constitution of Kentucky, relating to the Governor's power to remit fines and forfeitures and grant reprieves and pardons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 77 of the Constitution of Kentucky be amended to read as follows:

He shall have power to remit fines and forfeitures, commute sentences, ***and*** grant reprieves and pardons, ***for all offenses,*** except in case of impeachment, ***but he shall not pardon himself. He shall not remit a fine or forfeiture, commute a sentence, or grant a reprieve or pardon without first having received an application for such relief from an individual charged with, convicted of, or otherwise adjudged liable for, an offense.***[~~and~~] He shall file with each application[~~ therefor~~] a statement of the reasons for his decision thereon, which application and statement shall always be open to public inspection. ***An individual applying for and receiving such relief shall provide written notice of acceptance or rejection of the relief granted, and this notice shall be made a part of the application.*** In cases of treason, he shall have power to grant reprieves until the end of the next session of the General Assembly, in which the power of pardoning shall be vested; but he shall have no power to remit the fees of the Clerk, Sheriff or Commonwealth's Attorney in penal or criminal cases.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The question to be presented to the voters shall read as follows: "Are you in favor of amending the Kentucky Constitution to: (1) prohibit the Governor from pardoning himself; (2) require a person to apply to the Governor before receiving a pardon, reprieve, commutation of a sentence, or remission of a fine or forfeiture; and (3) require a person to be charged with, convicted of, or determined liable for an offense before applying for a pardon, reprieve, commutation of a sentence, or remission of a fine or forfeiture?"

HB 70, AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 145 of the Constitution of Kentucky be amended to read as follows:

Every citizen of the United States of the age of eighteen years who has resided in the state one year, and in the county six months, and the precinct in which he offers to vote sixty days next preceding the election, shall be a voter in said precinct and not elsewhere but the following persons are excepted and shall not have the right to vote.

1. Persons convicted in any court of competent jurisdiction of treason[~~, or felony,~~] or bribery in an election, or of such high misdemeanor as the General Assembly may declare shall operate as an exclusion from the right of suffrage, but persons hereby excluded may be restored to their civil rights by executive pardon. ***The conviction of a person in any court of competent jurisdiction of a felony shall operate as an exclusion from the right of suffrage until expiration of probation or final discharge from parole or maximum expiration of sentence.***
2. Persons who, at the time of the election, are in confinement under the judgment of a court for some penal offense.
3. Idiots and insane persons.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 70** is as follows:

HB 70, AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 145 of the Constitution of Kentucky be amended to read as follows:

Every citizen of the United States of the age of eighteen years who has resided in the state one year, and in the county six months, and the precinct in which he offers to vote sixty days next preceding the election, shall be a voter in said precinct and not elsewhere but the following persons are excepted and shall not have the right to vote.

1. Persons convicted in any court of competent jurisdiction of treason, or ***any*** felony ***which includes as an element of the offense the intentional killing of a human being not done under the influence of extreme emotional disturbance for which there exists a reasonable explanation or excuse, sexual contact with, a minor, sexual intercourse, or deviate sexual intercourse***, or bribery in an election, or of such high misdemeanor as the General Assembly may declare shall operate as an exclusion from the right of suffrage, but persons hereby excluded may be restored to their civil rights by executive pardon. ***Persons convicted in any court of competent jurisdiction of any other felony shall operate as an exclusion from the right of suffrage until expiration of probation or final discharge from parole or maximum expiration of sentence, but persons hereby excluded may be restored to their civil rights earlier by executive pardon.***
2. Persons who, at the time of the election, are in confinement under the judgment of a court for some penal offense.
3. Idiots and insane persons.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee on Education reported **HB 32, HB 100,** with Committee Substitute attached thereto, **HB 145, HB 197, HB 210, HB 285, HJR 7,** with Committee Substitute and Committee Amendment attached thereto, **HJR 11,** with Committee Substitute and Committee Amendment attached thereto, **HCR 19, HCR 25, HCR 29, HCR 31, HCR 32,** and **HCR 46** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 32, AN ACT relating to a student's license or permit to operate a motor vehicle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.051 is amended to read as follows:

(1) When a student age sixteen (16) or seventeen (17) drops out of school or is declared to be academically deficient, the school administrator or his designee shall notify the superintendent of schools of the district in which the student is a resident or is enrolled. The reports shall be made at the end of each semester but may be made earlier in the semester for accumulated absences. A student shall be deemed to have dropped out of school when he has nine (9) or more unexcused absences in the preceding semester. Any absences due to suspension shall be unexcused absences. A student shall be deemed to be academically deficient when he has not received passing grades in at least four (4) courses, or the equivalent of four (4) courses, in the preceding semester. The local school board shall adopt a policy to reflect a similar standard for academic deficiency for students in alternative, special education, or part-time programs.

(2) Within ten (10) days after receiving the notification, the superintendent shall report the student's name and Social Security number to the Transportation Cabinet. As soon as possible thereafter, the cabinet shall notify the student that his operator's license, ***intermediate license,*** permit, or privilege to operate a motor vehicle has been revoked or denied and shall inform the student of his right to a hearing before the District Court of appropriate venue to show cause as to the reasons his[~~driver's~~] license***, permit, or privilege*** should be reinstated. Within fifteen (15) days after this notice is sent, the custodial parent, legal guardian, or next friend of the student may request an ex parte hearing before the District Court. The student shall not be charged District Court filing fees. The notification shall inform the student that he is not required to have legal counsel.[~~ Revocation under this subsection shall not be permitted unless the local school district shall operate an alternative education program approved by the Department of Education designed to meet the learning needs of students who are unable to succeed in the regular program.~~]

(3) In order for the student to have his license reinstated, the court shall be satisfied that the license is needed to meet family obligations or family economic considerations which if unsatisfied would create an undue hardship or that the student is the only licensed driver in the household or the student is not considered a dropout or academically deficient pursuant to this section. If the student satisfies the court, the court shall notify the cabinet to reinstate the student's license at no cost. The student, if aggrieved by a decision of the court issued pursuant to this section, may appeal the decision within thirty (30) days to the Circuit Court of appropriate venue. A student who is being schooled at home shall be considered to be enrolled in school.

(4) A student who has had his license revoked under the provisions of this section may reapply for his driver's license as early as the end of the semester during which he enrolls in school and successfully completes the educational requirements. A student may also reapply for his driver's license at the end of a summer school semester which results in the student having passed at least four (4) courses, or the equivalent of four (4) courses, during the successive spring and summer semesters, and the courses meet the educational requirements for graduation. He shall provide proof issued by his school within the preceding sixty (60) days that he is enrolled and is not academically deficient.

Section 2. KRS 186.470 is amended to read as follows:

(1) The application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license, intermediate license, or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall be responsible as provided in KRS 186.590. If the minor does not have a father, mother, or guardian, an operator's license, intermediate license, or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. A signature shall not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian, or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection ***(3)***[~~(2)~~] of this section.

(2) ***The application shall include parental consent for the receipt and release of the information as set forth in Section 1 of this Act regarding the attendance and academic requirements for a minor to acquire and keep an operator's license, intermediate license, instructional permit, or privilege to operate a motor vehicle.***

(3) A parent or a guardian of a minor applicant may file with the cabinet a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.

(4)[~~(3)~~] The cabinet upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

HB 100, AN ACT relating to postsecondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors.

(a) Subject to paragraph (b) of this subsection, voting members of the board shall consist of ***the gubernatorial appointees and ex officio members of the Board of Directors of the Kentucky Higher Education Student Loan Corporation, who shall govern the authority as a separate and distinct board and entity***[~~:~~

~~1. Seven (7) members who shall be appointed from the general public residing in the Commonwealth of Kentucky by the Governor from nominees submitted by the Governor's Postsecondary Education Nominating Committee under KRS 164.005; and~~

~~2. Eight (8) members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to KRS 164A.050(3)(a)1., who shall serve terms of office on the authority board of directors coextensive with their respective terms of office on the Kentucky Higher Education Student Loan Corporation board of directors~~].

(b) ***Members serving terms of office as appointees to the board of the authority on the effective date of this Act shall continue to serve for the remainder of their unexpired terms.*** Upon resignation or expiration of the term of ***a***[~~an appointed~~] member ***who was appointed to***[~~of~~] the board of the authority ***before the effective date of this Act***[~~or the Kentucky Higher Education Student Loan Corporation~~], that member's position shall be ***replaced by an appointment of that member or another individual to the board of directors of***[~~abolished to reduce the combined number of appointed members of the boards of the authority and~~] the Kentucky Higher Education Student Loan Corporation[~~ to ten (10) members~~].

(c)[~~ In addition, the president of the Council on Postsecondary Education, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, the commissioner of education, and the secretary of the Finance and Administration Cabinet, or their designees who shall be another official of the same cabinet or agency, shall serve as voting ex officio members.~~

~~(d)~~] The term of office of appointed members ***to the authority board*** shall be four (4) years***, with members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to subsection (3)(a) of Section 2 of this Act serving terms of office on the authority's board of directors that are coextensive with their respective terms of office on the corporation's board***. Each member shall serve for the term for which he ***or she*** is appointed and[~~, except as provided in paragraph (b) of this subsection,~~] shall serve until ***a***[~~his~~] successor is appointed ***pursuant to paragraph (b) of this subsection***.

(2) Subject to paragraph (b) of subsection (1) of this section, appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chair, chair-elect, and secretary-treasurer who shall each serve for a term of one (1) year. At the conclusion of the chair's term of office, the chair-elect shall become the chair for the succeeding year and the board shall elect from its voting membership a new chair-elect.

(4) Board members, except officers or employees of the state, shall receive compensation for their services, in the amount of one hundred dollars ($100) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chair in accordance with KRS 61.823, and either the chair or the chair-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

(8) The executive director of the Kentucky Higher Education Student Loan Corporation shall serve as executive director of the authority and shall:

(a) Administer, manage, and direct the affairs and business of the authority, subject to the policies, control, and direction of the board of directors of the authority;

(b) Report on the implementation of the strategic plan of the authority;

(c) Carry out policy and program directives of the board of directors of the authority;

(d) Prepare and submit the proposed budget of the authority to the board of directors of the authority for approval; and

(e) Perform other duties and responsibilities assigned by the board of directors of the authority.

Section 2. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) (a) Subject to paragraph (b) of this subsection, the corporation shall be governed by a board of directors consisting of ***ten (10)***[~~:~~

~~1. Eight (8)~~] voting members chosen from the general public residing in the Commonwealth of Kentucky ***and appointed by the Governor***[~~; and~~

~~2. Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to KRS 164.746(1)(a)1., who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors~~].

(b) ***Members serving on the effective date of this Act on the corporation board of directors coextensive with their respective terms of office as appointees by the Governor to the board of directors of the Kentucky Higher Education Assistance Authority pursuant to Section 1 of this Act shall continue to serve for the remainder of their unexpired terms.*** Upon resignation or expiration of the term of ***a***[~~an appointed~~] member ***appointed by the Governor to the board of directors*** of[~~ the board of the corporation and~~] the Kentucky Higher Education Assistance Authority ***prior to the effective date of this Act***, that[~~ member's~~] position shall be ***replaced by appointment of that member or another individual to the board of directors of the Kentucky Higher Education Student Loan Corporation***[~~abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members~~].

(c) In addition, the president of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members.

(4) The Governor shall appoint directors according to subsection (3)(a) ***and (b)***[~~1.~~] of this section from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director shall serve for the appointed term and[~~, except as provided in subsection (3)(b) of this section,~~] shall serve until a successor has been appointed and has duly qualified.

(5) ***Subject to***[~~Except as provided in~~] subsection (3)(b) of this section, in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chair, chair-elect, and secretary-treasurer.[~~ The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.~~]

(8) ***The board shall appoint or contract for the services of an executive director to serve as the principal executive of the corporation and as the executive director of the Kentucky Higher Education Assistance Authority in accordance with Section 1 of this Act. The board shall prescribe the qualifications and duties for this position and fix the compensation and other terms of employment. The board shall authorize the executive director to appoint staff that the board deems necessary.***

(9) The executive director shall***:***

- ***(a) Determine the staffing assignments and the organizational structure necessary to carry out the responsibilities of the corporation;***
- ***(b)*** Administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation***;***
- ***(c) Report on the implementation of the strategic plan;***
- ***(d) Prepare and submit to the board for its approval the proposed budget of the corporation;***
- ***(e) Carry out policy and program directives of the board; and***
- ***(f) Perform all other duties and responsibilities assigned by the board***.

(10) The secretary-treasurer of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary-treasurer may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(11)[~~(9)~~] A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(12)[~~(10)~~] Official actions may be taken by the corporation at meetings duly called by the chair upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(13)[~~(11)~~] Directors, except officers or employees of the state, shall receive one hundred dollars ($100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(14)[~~(12)~~] Recognizing that the corporation and the Kentucky Higher Education Assistance Authority are governed by identical boards of directors and managed by a common executive director and otherwise share staff functions, the two (2) organizations shall provide technical, clerical, and administrative assistance to each other and for the Kentucky Educational Savings Plan Trust and the Commonwealth postsecondary education prepaid tuition trust fund, together with necessary office space and personnel, and shall assist each other in all ways by the performance of any and all actions which may be useful or beneficial in the performance of their public functions.

(15)[~~(13)~~] The corporation shall enter into contracts with the Kentucky Higher Education Assistance Authority, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund as may be proper and appropriate in respect to services which may include but not be limited to the servicing and collection of insured student loans or to facilitate the common administration, operation, and management of the contracting entities.

The Committee Substitute to **HB 100** is as follows:

HB 100, AN ACT relating to postsecondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors.

- (a) Subject to paragraph (b) of this subsection, voting members of the board shall consist of ***the gubernatorial appointees and ex officio members of the Board of Directors of the Kentucky Higher Education Student Loan Corporation, who shall govern the authority as a separate and distinct board and entity***[~~:~~
  - ~~1. Seven (7) members who shall be appointed from the general public residing in the Commonwealth of Kentucky by the Governor from nominees submitted by the Governor's Postsecondary Education Nominating Committee under KRS 164.005; and~~
  - ~~2. Eight (8) members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to KRS 164A.050(3)(a)1., who shall serve terms of office on the authority board of directors coextensive with their respective terms of office on the Kentucky Higher Education Student Loan Corporation board of directors~~].
- (b) ***Members serving terms of office as appointees to the board of the authority on the effective date of this Act shall continue to serve for the remainder of their unexpired terms.*** Upon resignation or expiration of the term of ***a***[~~an~~

~~appointed~~] member ***who was appointed to***[~~of~~] the board of the authority ***before the effective date of this Act***[~~or the Kentucky Higher Education Student Loan Corporation~~], that member's position shall be ***replaced by an appointment of that member or another individual to the board of directors of***[~~abolished to reduce the combined number of appointed members of the boards of the authority and~~] the Kentucky Higher Education Student Loan Corporation[~~ to ten (10) members~~].

(c)[~~ In addition, the president of the Council on Postsecondary Education, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, the commissioner of education, and the secretary of the Finance and Administration Cabinet, or their designees who shall be another official of the same cabinet or agency, shall serve as voting ex officio members.~~

~~(d)~~] The term of office of appointed members ***to the authority board*** shall be four (4) years***, with members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to subsection (3)(a) of Section 2 of this Act serving terms of office on the authority's board of directors that are coextensive with their respective terms of office on the corporation's board***. Each member shall serve for the term for which he ***or she*** is appointed and[~~, except as provided in paragraph (b) of this subsection,~~] shall serve until ***a***[~~his~~] successor is appointed ***pursuant to paragraph (b) of this subsection***.

(2) Subject to paragraph (b) of subsection (1) of this section, appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chair, chair-elect, and secretary-treasurer who shall each serve for a term of one (1) year. At the conclusion of the chair's term of office, the chair-elect shall become the chair for the succeeding year and the board shall elect from its voting membership a new chair-elect.

(4) Board members, except officers or employees of the state, shall receive compensation for their services, in the amount of one hundred dollars ($100) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chair in accordance with KRS 61.823, and either the chair or the chair-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

(8) The executive director of the Kentucky Higher Education Student Loan Corporation shall serve as executive director of the authority and shall:

(a) Administer, manage, and direct the affairs and business of the authority, subject to the policies, control, and direction of the board of directors of the authority;

(b) Report on the implementation of the strategic plan of the authority;

(c) Carry out policy and program directives of the board of directors of the authority;

(d) Prepare and submit the proposed budget of the authority to the board of directors of the authority for approval; and

(e) Perform other duties and responsibilities assigned by the board of directors of the authority.

Section 2. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants

of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) (a) Subject to paragraph (b) of this subsection, the corporation shall be governed by a board of directors consisting of ***ten (10)***[~~:~~

~~1. Eight (8)~~] voting members chosen from the general public residing in the Commonwealth of Kentucky ***and appointed by the Governor***[~~; and~~

~~2. Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to KRS 164.746(1)(a)1., who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors~~].

(b) ***Members serving on the effective date of this Act on the corporation board of directors coextensive with their respective terms of office as appointees by the Governor to the board of directors of the Kentucky Higher Education Assistance Authority pursuant to Section 1 of this Act shall continue to serve for the remainder of their unexpired terms.*** Upon resignation or expiration of the term of ***a***[~~an appointed~~] member ***appointed by the Governor to the board of directors*** of[~~ the board of the corporation and~~] the Kentucky Higher Education Assistance Authority ***prior to the effective date of this Act***, that[~~ member's~~] position shall be ***replaced by appointment of that member or another individual to the board of directors of the Kentucky Higher Education Student Loan Corporation***[~~abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members~~].

(c) In addition, the president of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members.

(4) The Governor shall appoint directors according to subsection (3)(a) ***and (b)***[~~1.~~] of this section from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director shall serve for the appointed term and[~~, except as provided in subsection (3)(b) of this section,~~] shall serve until a successor has been appointed and has duly qualified.

(5) ***Subject to***[~~Except as provided in~~] subsection (3)(b) of this section, in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chair, chair-elect, and secretary-treasurer.[~~ The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.~~]

(8) ***The board shall appoint or contract for the services of an executive director to serve as the principal executive of the corporation and as the executive director of the Kentucky Higher Education Assistance Authority in accordance with Section 1 of this Act. The board shall prescribe the qualifications and duties for this position and fix the compensation and other terms of employment. The board shall authorize the executive director to appoint staff that the board deems necessary.***

(9) The executive director shall***:***

(a) Determine the staffing assignments and the organizational structure necessary to carry out the responsibilities of the corporation;

(b) Administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation***;***

(c) Report on the implementation of the strategic plan;

(d) Prepare and submit to the board for its approval the proposed budget of the corporation;

(e) Carry out policy and program directives of the board; and

(f) Perform all other duties and responsibilities assigned by the board.

(10) The secretary-treasurer of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary-treasurer may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(11)[~~(9)~~] A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(12)[~~(10)~~] Official actions may be taken by the corporation at meetings duly called by the chair upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(13)[~~(11)~~] Directors, except officers or employees of the state, shall receive one hundred dollars ($100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(14)[~~(12)~~] Recognizing that the corporation and the Kentucky Higher Education Assistance Authority are governed by identical boards of directors and managed by a common executive director and otherwise share staff functions, the two (2) organizations shall provide technical, clerical, and administrative assistance to each other and for the Kentucky Educational Savings Plan Trust and the Commonwealth postsecondary education prepaid tuition trust fund, together with necessary office space and personnel, and shall assist each other in all ways by the performance of any and all actions which may be useful or beneficial in the performance of their public functions.

(15)[~~(13)~~] The corporation shall enter into contracts with the Kentucky Higher Education Assistance Authority, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund as may be proper and appropriate in respect to services which may include but not be limited to the servicing and collection of insured student loans or to facilitate the common administration, operation, and management of the contracting entities.

Section 3. The success of Kentucky's students is dependent upon recruiting and retaining high quality teachers. The Kentucky Higher Education Assistance Authority is encouraged to continue the Best in Class loan forgiveness program available through the Student Loan People. This program forgives interest on student loans for students who teach in Kentucky and forgives principal and interest on student loans for students who teach in the areas of mathematics, science, foreign language, and special education. The forgiveness of loans for teachers of mathematics and science will encourage those who are studying mathematics and science as a higher education degree to enter into the teaching profession.

HB 145, AN ACT relating to school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.150 is amended to read as follows:

(1) Any student who has attained the age of six (6) years, but has not reached his or her eighteenth birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.

(2) Any student enrolled in a public school who has attained the age of eighteen (18) years, but has not reached his or her twenty-first birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.

(3) Any student who has been reported as a truant two (2) or more times is an habitual truant.

(4) For the purposes of establishing a student's status as a truant, the student's attendance record is cumulative for an entire school year. If a student transfers from one Kentucky public school to another during a school year, the receiving school shall incorporate the attendance information provided under Section 2 of this Act in the student's official attendance record.

(5) A local board of education may adopt reasonable policies that:

(a) Require students to comply with compulsory attendance laws;

(b) Require truants and habitual truants to make up unexcused absences; and

(c) Impose sanctions for noncompliance.

Section 2. KRS 159.170 is amended to read as follows:

(1) Whenever any child of compulsory school age withdraws from school, the teacher of the child shall ascertain the reason. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent of schools of the district in which the school is located. If the child has withdrawn because of change of residence, the next residence shall be ascertained and included in the report.

(2) The superintendent shall thereupon forward ***notification of the withdrawal and accompanying information***[~~a card showing the essential facts~~] regarding the child ***to the Kentucky Department of Education. The information provided shall include but not be limited to***[~~and stating~~] the place of ***the student's***[~~his~~] new residence***, if known, and the student's attendance records***[~~ to the superintendent of schools of the district to which the child has moved. The Kentucky Board of Education shall prescribe the forms to be used in the operation of this section~~].

(3) A school district shall notify the Kentucky Department of Education when a new student enrolls in a school in the

district.

(4) The Kentucky Department of Education, upon notification of a student's enrollment in a school, shall forward within ten (10) working days all records regarding the student collected under this section to the receiving district.

HB 197, AN ACT relating to community education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.155 is amended to read as follows:

As used in KRS 160.157, unless the context otherwise requires:

(1) "Board" means the board of education of a local school district;

(2) "Community school" means a school that makes its facilities available for citizen use, coordinates activities of local citizens in identifying program needs and establishing priorities, identifies and utilizes available program resources, and assists in the initiation of programs to improve the cultural, social, recreational, and educational opportunities available in a community;

(3) "Community education program" means a program in which a public building, including a public elementary or secondary school, is used as a community center operated by a local education agency in cooperation with other groups in the community, community organizations, and local governmental agencies to provide educational, recreational, cultural, health care, and other related community services in accordance with the needs, interests, and concerns of the community;

(4) "Community education director" means an employee of a local school district who is responsible for a ***countywide***[~~systemwide~~] program of community education in a school district ***or school districts***[~~;~~

~~(5) "Community education coordinator" means an employee of a local school district who is responsible for the coordination of a specific program or other component of a total community education program within a local school district or community~~].

Section 2. KRS 160.156 is amended to read as follows:

(1) The Kentucky Board of Education shall develop a state plan for community education which sets forth the goals and objectives of the program and establishes a system of priorities for targeting available resources on the areas with the greatest need.

(2) The Kentucky ***Department***[~~Board~~] of Education shall administer a grant program pursuant to KRS 160.155 and 160.157 to provide money to local school districts to ***employ one (1) full-time community education director***[~~:~~

~~(a) Support staff~~] to plan and manage programs and services for community education[~~;~~

~~(b) Support programs~~] that are targeted to the greatest educational needs in the community[~~;~~] and ***to***[

~~(c)~~] encourage cooperation among all local school districts in a county. ***Funds shall also be used to provide professional development training to all state funded community education directors.***

(3) Funds appropriated for this purpose shall be distributed by the Kentucky ***Department***[~~Board~~] of Education through a grant process. Districts shall provide a twenty-five percent (25%) cash match in order to receive state community education funding.

Section 3. KRS 160.157 is amended to read as follows:

(1) A public school district may receive funding for a community school program if it meets all of the following criteria:

(a) Submits an application for approval by the Kentucky Board of Education in the manner and form prescribed by the Department of Education;

(b) Submits a plan, approved by the local board, which outlines the proposed community education program, including procedures for obtaining the involvement and cooperation of other agencies and groups in identifying and recommending programs for meeting locally determined needs;

(c) Establishes a council with the power to make district-wide decisions of policy to assist in conducting community needs assessments and recommending program priorities;

(d) Employs[~~ at least~~] one (1) full-time community education director.

(2) Two (2) or more school districts may combine for purposes of qualifying for state funds if the local districts identify a district of record for purposes of receiving state community education funds, maintaining records, and filing reports. Two (2) or more districts in the same county that wish to apply for state funds shall submit a joint proposal.

(3) Each grantee receiving state funds for a community education program shall submit an annual report to the ***Kentucky***[~~State~~] Department of Education. The report shall include an evaluation of the program and a financial statement. Failure to submit the report shall result in the loss of state funding.

HB 210, AN ACT relating to classified employee's benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide

professional meeting, the school district shall permit ***employees***[~~teachers~~] who are delegates to attend as compensated professional leave time and shall employ substitute teachers ***or other necessary substitutes*** in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election and on the day of a primary election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the school day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

(11) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses school days due to emergencies, including weather-related emergencies:

(a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:

1. State and local requirements under this section are met regarding the equivalent of the number and length of instructional days, professional development days, holidays, and days for planning activities without the presence of pupils; and

2. The provisions of the district's school calendar to make up school days missed due to any emergency, as approved by the Kentucky Department of Education, including but not limited to a provision for additional instructional time per day, are met.

(b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:

1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;

2. The employee's contract requires a minimum six (6) hour work day; and

3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.

(c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened instructional days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened instructional days.

Section 2. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020;[~~ and~~]

(b) ***"Progressive discipline" means a system of intermediate disciplinary measures for dealing with job-related behavior that does not meet expected performance standards as communicated in the district employee handbook. The purpose of progressive discipline is to assist the employee to understand that a performance problem exists. Recorded in board policy, the process provides for verbal and written warnings, public and private reprimands, probation with a corrective action plan, and suspensions with pay or without pay of up to seven (7) days prior to termination. The local policy shall require the use of at least three (3) of these strategies, each progressively more severe and chosen based on the seriousness of the behavior. Similar offenses within a reasonable period of time do not require repetition of progressive steps; and***

(c) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish[~~ by January, 1992,~~] job classifications and minimum qualifications for local district classified employment positions***.***[~~ which shall be effective July 1, 1992. After June 30, 1992,~~] No person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the Council on Postsecondary Education.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually***,*** except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal. ***Progressive discipline shall not be required as a prerequisite to nonrenewal of an employee who has not completed four (4) years of continuous active service;***

(b) ***An employee who is terminated, upon written notice and due process as provided in paragraph (c) of this subsection; and***

(c) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. ***For an employee who has completed four (4) years of continuous active service, the following procedures shall be used:***

1. ***The notice shall contain a specific and complete statement of the grounds upon which the nonrenewal or termination is based and shall follow established steps of progressive discipline. However, progressive discipline shall not be required in cases of alleged sexual or financial impropriety; falsification of documents with intent by the employee to deceive; loss of credentials; possession, sale, or use of controlled substance; conviction of or entering an Alford or nolo contendere plea to a felony or any crime involving moral turpitude or illegal transaction with a minor; or a threat to the safety of students or other employees. Reductions in force described in subsection (8) of this section shall not require the use of progressive discipline***[~~Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based~~].

2. The employee ***may, within ten (10) days after receiving the charge, notify the superintendent and the commissioner of education of his or her intent to challenge the action and, upon failure of the employee to give notice within ten (10) days, the termination shall be final. Upon notice by the employee of his or her intention to answer the charge, the commissioner of education shall, within two (2) business days, compose a list of three (3) hearing officers who have received training in the conduct of hearings for classified employees. The commissioner, or his or her designee, shall immediately forward the three (3) names to both parties. Each party shall eliminate one (1) name and within two (2) business days notify the commissioner of the two (2) names each leaves on the list. The commissioner shall select the hearing officer from the remaining names***[~~ shall have ten (10) days to respond in writing to the grounds for nonrenewal~~].

3. ***Upon receiving the request from the commissioner of education, the hearing officer shall, in a timely***

manner but within no more than twenty (20) days, schedule an administrative hearing to be held in accordance with KRS Chapter 13B. The hearing shall begin no later than forty-five (45) days after the employee files the notice of intent to answer the charge, and shall be held within the county of the school district.

4. The hearing officer shall have final authority to rule on dispositive prehearing motions. At the hearing, the hearing officer shall preside with authority to rule on procedural matters.

5. The hearing may be public or private at the discretion of the employee.

6. At the conclusion of the hearing, the hearing officer shall affirm or deny the superintendent's action.

7. The superintendent may suspend the employee pending final action to terminate the contract if, in his or her judgment, the character of the charge warrants the action. If after the hearing the decision of the hearing officer is against termination of the contract, the suspended employee shall be paid his or her full salary for the period of suspension.

8. The employee or the school district shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B. The review of the final order shall be conducted by the Circuit Court as required by KRS 13B.150.

9. As an alternative to termination of an employee's contract, the superintendent, upon providing written notification to the employee of the specific charge or charges, may impose other sanctions in the use of progressive discipline. During any suspension pending investigation to determine if discipline is warranted, the superintendent shall place the employee on leave with pay if suspension is necessary. The due process described in this subsection shall apply if the employee is suspended without pay or terminated.

10. At any time prior to the conclusion of the hearing, either party may request an opportunity to mediate the dispute between themselves with their representatives present. If both parties agree to the mediation, they may attempt to mediate the dispute. The hearing officer shall not be present during attempts at mediation.

11. Nothing in this paragraph shall reduce or eliminate a benefit provided by an employer-employee bargained contract, or limit the benefits of future contracts.

(6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.

(7) ***The contract of a classified school employee shall remain in force during good behavior and efficient and competent service and shall not be terminated, except for***~~[Nothing in this section shall prevent a superintendent from terminating a classified employee for]~~ incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy. ***A classified employee is entitled to a representative in any meeting with the superintendent or his or her designee if the result of that meeting may result in immediate suspension or termination.***

(8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9) ***An employee on approved military leave shall be awarded service credit for each year of military service or each year of combined military and school service within a school year. If the leave time will cause the employee's time of continuous active service to extend beyond four (4) years, the local district may require the employee to complete a one (1) year probationary period upon return. If required, the local district shall notify the employee in writing within fourteen (14) days following receipt of the military leave request.***

(10) A classified employee who has been or may be hereafter inducted into the Armed Forces of the United States shall, at the expiration of service, be reemployed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of school, unless the employee is physically or mentally incapacitated according to medical notations on official discharge papers.

(11) Local school boards shall develop and provide to all classified employees written policies which shall include but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees***, and available sick, personal, emergency, and professional leave where applicable***; and

(c) Discipline guidelines and procedures that satisfy due process requirements. ***Due process for discipline that results in loss of pay or compensation shall be provided as set forth in paragraph (c) of subsection (5) of this section and shall follow steps of progressive discipline.***

(12)[~~(10)~~] Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include but not be limited to suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(13)[~~(11)~~] The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

HB 285, AN ACT relating to nonresident student contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.350 is amended to read as follows:

Each district which meets the following requirements shall be eligible to share in the distribution of funds from the fund to support education excellence in Kentucky:

(1) Employs and compensates all teachers for not less than one hundred eighty-five (185) days. The Kentucky Board of Education, upon recommendation of the ***commissioner of education***[~~chief state school officer~~], shall prescribe procedures by which this requirement may be reduced during any year for any district which employs teachers for less than one hundred and eighty-five (185) days, in which case the eligibility of a district for participation in the public school fund shall be in proportion to the length of time teachers actually are employed;

(2) Operates all schools for a term as provided in KRS 158.070 and administrative regulations of the Kentucky Board of Education. If the school term is less than one hundred eighty-five (185) days for any reason not approved by the Kentucky Board of Education on recommendation of the ***commissioner***[~~chief state school officer~~], the eligibility of a district for participation in the public school fund shall be in proportion to the length of term the schools actually operate;

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;

(4) Includes no nonresident pupils in its average daily attendance, except as follows:

(a) Pupils listed under a written agreement, which may be for multiple years, with the district of the pupils' legal residence. If an agreement cannot be reached, either board may appeal to the ***commissioner***[~~chief state school officer~~] for settlement of the agreement.

(b) The ***commissioner***[~~chief state school officer~~] shall have thirty (30) days to establish the terms of agreement. Either board may appeal the ***commissioner's***[~~chief state school officer's~~] decision to the Kentucky Board of Education.

(c) The commissioner and the Kentucky Board of Education shall consider the factors affecting the districts, including but not limited to academic performance and the impact on programs, school facilities, transportation, and staffing of the districts.

(d) The Kentucky Board of Education shall have sixty (60) days to approve or amend the agreement of the ***commissioner***[~~chief state school officer~~].

This subsection does not apply to those pupils enrolled in an approved class conducted in a hospital[~~;~~] and [~~(b) —~~]pupils who have been expelled for behavioral reasons who shall be counted in average daily attendance under KRS 157.320;

(5) Any secondary school which maintains a basketball team for boys for other than intramural purposes, shall maintain the same program for girls;

(6) Any school district which fails to comply with subsection (5) shall be prohibited from participating in varsity competition in any sport for one (1) year. Determination of failure to comply shall be made by the Department of Education after a hearing requested by any person within the school district. The hearing shall be conducted in accordance with KRS Chapter 13B. A district under this subsection shall, at the hearing, have an opportunity to show inability to comply.

HJR 7, A JOINT RESOLUTION directing the Education Cabinet to recognize and celebrate International Education Week.

WHEREAS, education is a shared value around the world and the foundation of our children's future; and

WHEREAS, the economic strength of our country can be measured by the education of our citizens; and

WHEREAS, technology has leveled the playing field and "flattened" the world, highlighting the common interrelated futures of all nations and making it more critical that citizens have skills in math, science, and foreign languages; and

WHEREAS, international education will expand a student's understanding of the world and encourage tolerance of differences in people; and

WHEREAS, International Education Week provides an opportunity to promote and celebrate the benefits of international education and exchange worldwide;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Education Cabinet, its agencies, and the schools associated with the agencies shall recognize and celebrate International Education Week the second full week of November by establishing activities and opportunities for learning experiences related to international education throughout the week.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Ms. Laura Owens, Secretary of the Education Cabinet, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

The Committee Substitute to **HJR 7** is as follows:

HJR 7, A JOINT RESOLUTION directing the Education Cabinet to recognize and celebrate International Education Week.

WHEREAS, education is a shared value around the world and the foundation of our children's future; and

WHEREAS, the economic strength of our country can be measured by the education of our citizens; and

WHEREAS, technology has leveled the playing field and "flattened" the world, highlighting the common interrelated futures of all nations and making it more critical that citizens have skills in math, science, and foreign languages; and

WHEREAS, international education will expand a student's understanding of the world and encourage tolerance of differences in people; and

WHEREAS, International Education Week provides an opportunity to promote and celebrate the benefits of international education and exchange worldwide;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Education Cabinet, its agencies, and the schools associated with the agencies are encouraged to recognize and celebrate International Education Week the second full week of November by establishing activities and opportunities for learning experiences related to international education throughout the week.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Ms. Laura Owens, Secretary of the Education Cabinet, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

The Committee Amendment No. 1 Title to **HJR 7** is as follows:

HJR 7, Amend title to read as follows:

"A JOINT RESOLUTION encouraging the Education Cabinet and schools to recognize and celebrate International Education Week."

HJR 11, A JOINT RESOLUTION relating to the inclusion of the Holocaust in the school curriculum.

WHEREAS, in the words of the United States Holocaust Memorial Museum, "the Holocaust was the systematic, bureaucratic, state-sponsored persecution and murder of approximately six million Jews by the Nazi regime and it collaborators"; and

WHEREAS, the Nazis targeted other groups considered to be "undesirable" for persecution, based on race, nationality, ethnicity, disability, sexual orientation, religion, and political ideology, resulting in hundreds of thousands of additional deaths; and

WHEREAS, the United Nations Convention on the Prevention and Punishment of the Crime of Genocide of January 11, 1951, described genocide to be "acts committed with intent to destroy, in whole or in part, a national, ethical, racial or religious group"; and

WHEREAS, the education of young people must be a fundamental component of efforts to reduce and eliminate the maltreatment and persecution of peoples in the modern world; and

WHEREAS, that education must include the opportunity for students to remember and honor the people whose lives were taken by the Nazis; to listen to the stories of those who survived the Holocaust through courage, tenacity, and active resistance;

and to examine and understand the events which let to this horrific crime against humanity; and

WHEREAS, such an educational process inexorably leads to contemplation of deep philosophical questions that reside at the core of human existence, the reflection upon which may help the young people of Commonwealth of Kentucky, the United States of America, and the world to take intentional action to ensure that the human rights and dignity of all people are recognized, valued, and guaranteed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is the intent of the General Assembly that students in the public schools learn about the Holocaust that was inflicted on millions of Jews and other targeted groups in Germany under the Nazi regime. The understanding of the Holocaust is fundamental to reducing and eliminating the maltreatment and persecution of peoples in the modern world. By July 1, 2007, the commissioner of education shall convene a work group to review the Holocaust curricula developed by other states and review the Kentucky core content for assessment at the elementary, middle, and high school levels to determine places where the study of the Holocaust shall be included. The work group shall include social studies, language arts, foreign language, and arts and humanities teachers; one (1) representative of the Kentucky Association of School Administrators; one (1) representative of the Kentucky Education Association; one (1) representative of the Kentucky School Boards Association; and two (2) representatives of two (2) different Jewish organizations.

Section 2. The work group shall submit its final report to the commissioner of education and the Kentucky Board of Education no later than March 1, 2008. The changes to the Kentucky core content for assessment shall be incorporated in administrative regulation and disseminated to local schools to be included in the school curriculum for the 2008-2009 school year.

The Committee Substitute to **HJR 11** is as follows:

HJR 11, A JOINT RESOLUTION relating to the inclusion of the Holocaust in the school curriculum.

WHEREAS, in the words of the United States Holocaust Memorial Museum, "the Holocaust was the systematic, bureaucratic, state-sponsored persecution and murder of approximately six million Jews by the Nazi regime and it collaborators"; and

WHEREAS, the Nazis targeted other groups considered to be "undesirable" for persecution, based on race, nationality, ethnicity, disability, sexual orientation, religion, and political ideology, resulting in hundreds of thousands of additional deaths; and

WHEREAS, the United Nations Convention on the Prevention and Punishment of the Crime of Genocide of January 11, 1951, described genocide to be "acts committed with intent to destroy, in whole or in part, a national, ethical, racial or religious group"; and

WHEREAS, the education of young people must be a fundamental component of efforts to reduce and eliminate the maltreatment and persecution of peoples in the modern world; and

WHEREAS, that education must include the opportunity for students to remember and honor the people whose lives were taken by the Nazis; to listen to the stories of those who survived the Holocaust through courage, tenacity, and active resistance; and to examine and understand the events which led to this horrific crime against humanity; and

WHEREAS, such an educational process inexorably leads to contemplation of deep philosophical questions that reside at the core of human existence, the reflection upon which may help the young people of the Commonwealth of Kentucky, the United States of America, and the world to take intentional action to ensure that the human rights and dignity of all people are recognized, valued, and guaranteed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is the intent of the General Assembly that students in the public schools learn about the Holocaust that was inflicted on millions of Jews and other targeted groups in Germany under the Nazi regime. The understanding of the Holocaust is fundamental to reducing and eliminating the maltreatment and persecution of peoples in the modern world. By July 1, 2007, the commissioner of education shall convene a work group to review the Holocaust curricula developed by other states and review the Kentucky core content for assessment at the elementary, middle, and high school levels to determine places where the study of the Holocaust may be included. The work group shall include social studies, language arts, foreign language, and arts and humanities teachers; one (1) representative of the Kentucky Association of School Administrators; one (1) representative of the Kentucky Education Association; one (1) representative of the Kentucky School Boards Association; and two (2) representatives of two (2) different Jewish organizations.

Section 2. The work group shall develop a curriculum guide that outlines age-appropriate and course-related material and activities that teachers may use to teach the history of the Holocaust.

Section 3. The work group shall submit its final report and curriculum guide to the commissioner of education and the

Kentucky Board of Education for adoption no later than March 1, 2008. Any changes to the Kentucky core content for assessment shall be incorporated in administrative regulation and disseminated to local schools to be included in the school curriculum for the 2008-2009 school year. After adoption by the Kentucky Board of Education, the Department of Education shall disseminate the report and the curriculum guide to local districts and schools prior to the 2008-2009 school year.

The Committee Amendment No. 1 Title to **HJR 11** is as follows:

HJR 11, By changing the title to read:

"A JOINT RESOLUTION relating to the study of the Holocaust in the public schools."

HCR 19, A CONCURRENT RESOLUTION directing a study of the cost of textbooks.

WHEREAS, tuition and fees for a Kentucky resident to attend a public college in Kentucky have increased by more than three hundred percent since 1986; and

WHEREAS, other costs of attending college, including the cost of college textbooks, have also risen dramatically, exacerbating the negative effect on college affordability and student access to postsecondary education; and

WHEREAS, according to a report released in July 2005 by the General Accountability Office (GAO) of the U.S. Congress, the average estimated cost of books and supplies for a first-time full-time college student at a public four-year institution in 2003-2004 was $898, or about twenty-six percent of the cost of tuition and fees; and

WHEREAS, the average first-time full-time student at a two-year public institution paid $886 for books and supplies in 2003-2004, or almost seventy-five percent of the cost of tuition and fees; and

WHEREAS, according to the GAO, college textbook prices have risen at an average annual rate of six percent between 1987-1988 and 2003-2004, twice the average annual rate of inflation; and

WHEREAS, nationally since December 1986, textbook prices have nearly tripled, putting an extreme financial burden on college students and their families; and

WHEREAS, a February 2006 report from the Goldman Sachs Group, Inc., estimates revenue growth of over thirty-seven percent for publishers of elementary and secondary instructional materials in the United States between 2003 and 2009, from $4.3 billion to $5.9 billion; and

WHEREAS, the costs of textbooks at the elementary and secondary level have increased substantially in recent years and need to be evaluated; and

WHEREAS, there are multiple causes and factors contributing to the extraordinary increase of the price of textbooks and related materials;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall designate legislative staff to study the cost of textbooks and other instructional materials at the elementary, secondary, and postsecondary levels.

Section 2. The study shall investigate the cost of textbooks and related materials, and investigate the causes and factors contributing to the high prices. Areas of investigation may include, but are not limited to:

(1) Pricing policies of book publishers;

(2) Development and production costs;

(3) The level of market competition between textbook publishers, wholesale distributors of textbooks, and retail booksellers in the vicinity of institutions;

(4) Profit margins of publishers, distributors, and booksellers;

(5) The effects of the increased use of computer-based and Internet-based instructional supplements on textbooks prices;

(6) The relationship between the distribution structures for new and used textbooks;

(7) The role of shorter revision cycles implemented by book publishers; and

(8) The manner in which textbooks are chosen, and the effect of the marketing practices and incentives provided in textbook selection.

Section 3. The study shall be completed by November 1, 2007, with a written report presented to the Interim Joint Committee on Education by December 1, 2007.

Section 4. Provisions of this Resolution to the contrary notwithstanding, the Commission shall have the authority to alternatively assign the issues herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 25, A CONCURRENT RESOLUTION confirming the appointment of Jennifer L. Forgy to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Jennifer L. Forgy to the Education Professional Standards Board to replace Linda L. Livers, whose term has expired, representing middle or high school teachers for a term expiring September 18, 2010; and

WHEREAS, the House of Representatives and the Senate find that Jennifer L. Forgy meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Jennifer L. Forgy to the Education Professional Standards Board for a term expiring September 18, 2010.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Concurrent Resolution, and written confirmation of its adoption, to Ms. Jennifer L. Forgy, 2028 Heather Way, Lexington, Kentucky 40503, and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 29, A CONCURRENT RESOLUTION confirming the appointment of Franklin D. Cheatham to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, Governor Ernie Fletcher has issued Executive Order 2006-1218 appointing Franklin D. Cheatham to the Education Professional Standards Board representing chief academic officers for a term expiring September 18, 2010; and

WHEREAS, the House of Representatives and the Senate find that Franklin D. Cheatham meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Franklin D. Cheatham to the Education Professional Standards Board for a term expiring September 18, 2010.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Franklin D. Cheatham, 30 Nottingham Court, Campbellsville, Kentucky 42718; and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 31, A CONCURRENT RESOLUTION confirming the appointment of Cynthia W. York to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, Governor Ernie Fletcher has issued Executive Order 2006-1218 appointing Cynthia W. York to the Education Professional Standards Board representing elementary school teachers for a term expiring September 18, 2010; and

WHEREAS, the House of Representatives and the Senate find that Cynthia W. York meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Cynthia W. York to the Education Professional Standards Board for a term expiring September 18, 2010.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Cynthia W. York, 505 Wilderness Road, Glasgow, Kentucky 42141; and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 32, A CONCURRENT RESOLUTION confirming the appointment of Zenaida M. Smith to the Education Professional Standards Board.

WHEREAS, by the authority granted by KRS 161.028, Governor Ernie Fletcher has issued Executive Order 2006-415 appointing Zenaida M. Smith as a member of the Education Professional Standards Board, representing middle and junior high school teachers, to replace David Muse, Louisville, whose has resigned, for a term expiring September 18, 2009; and

WHEREAS, appointments to the Education Professional Standards Board are subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, the House of Representatives and the Senate find that Zenaida M. Smith meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Zenaida M. Smith to the Education Professional Standards Board for a term expiring September 18, 2009.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Ms. Zenaida M. Smith, 836 Daniels Drive, Worthington, Kentucky 41183 and to Governor Ernie Fletcher, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 46, A CONCURRENT RESOLUTION urging Congress to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).

WHEREAS, the intent of Congress in the enactment of the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) was to protect the Social Security program and eliminate perceived abuses in the payment of dual benefits to certain beneficiaries; and

WHEREAS, the GPO and WEP have resulted in devastating, unintended consequences for hundreds of thousands of teachers and other public employees nationwide; and

WHEREAS, the GPO affects teachers and other public employees in Kentucky and other states who are participants in public retirement systems but who do not participate in the Social Security retirement program; and

WHEREAS, under the GPO, a teacher who receives benefits under the Kentucky Teachers' Retirement System will suffer at least a two-thirds reductions in the Social Security survivor benefits the teacher would otherwise receive from a spouse's private-sector earnings; and

WHEREAS, teachers in fifteen states, including Kentucky, do not participate in the Social Security program; and

WHEREAS, the WEP reduces the Social Security benefits of a teacher or other public employee who has participated and received earnings sufficient to qualify for Social Security retirement benefits as well as the benefits procured under the Kentucky Teachers' Retirement System or other public retirement system; and

WHEREAS, the GPO and WEP unfairly target public employees, especially our highly valued teachers who sacrifice lucrative earnings in the private sector to educate our children; and

WHEREAS, Kentucky has a significant teacher shortage and loses more than 2000 teachers annually to retirement and must actively recruit new teachers to meet growing enrollment demands; and

WHEREAS, a federal proposal to repeal both the GPO and WEP, the Social Security Fairness Act of 2007, has been introduced in the U.S. House of Representatives and the U.S. Senate and clearly indicates an awareness and acknowledgment of the devastating impact of these provisions on teachers and other public employees;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky urges the Congress of the United States to enact the Social Security Fairness Act of 2007 or similar legislation to repeal the GPO and WEP provisions of the Social Security law.

Section 2. The Clerk of the House of Representatives shall transmit copies of this Concurrent Resolution to the President and Vice President of the United States, to the Speaker of the U.S. House of Representatives, the Majority Floor Leader of the U.S. Senate, and to each Senator and Representative from the Commonwealth of Kentucky in the Congress of the United States.

The Committee on Appropriations and Revenue reported **HB 5,** with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 5,** is as follows:

HB 5, AN ACT relating to energy efficiency measures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) To improve energy efficiency throughout state government, the Finance and Administration Cabinet is encouraged to:

(a) Utilize the United States Environmental Protection Agency's national energy performance system (ENERGY STAR) to:

1. Develop energy efficiency standards for new construction designs for proposed state facilities; and

2. Measure the energy efficiency of existing state facilities; and

(b) Incorporate ENERGY STAR products in state agency procurements, where possible.

(2) The Finance and Administration Cabinet shall develop a strategy to:

(a) Replace at least fifty percent (50%) of the state-owned passenger vehicles and light-duty trucks, overseen and administered by the Division of Fleet Management as of July 1, 2007, with:

1. New qualified hybrid motor vehicles as defined in 26 U.S.C. sec. 30B;

2. New advanced lean burn technology motor vehicles as defined in 26 U.S.C. sec. 30B;

3. New qualified fuel cell motor vehicles as defined in 26 U.S.C. sec. 30B; or

4. New qualified alternative fuel motor vehicles as defined in 26 U.S.C. sec. 30B; and

(b) Increase the use of ethanol, biodiesel, and other alternate transportation fuels as defined in KRS 152.715 to reduce state government's dependence on petroleum-based transportation fuels, where possible.

(3) On or before December 1, 2007, and every December 1 thereafter, the Finance and Administration Cabinet shall report to the Legislative Research Commission:

(a) Any improvements in energy efficiency planned or realized through the use of ENERGY STAR;

(b) The strategy for transitioning to motor vehicles outlined in subsection (2) of this section, including a life-cycle cost comparison, and a projected timetable to replace motor vehicles in the state motor pool as provided in subsection (2) of this section; and

(c) The strategy for increased use of ethanol, biodiesel, and alternate transportation fuels, including the targeted amount and the dates by which these targets shall be achieved.

SECTION 2. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 6 of this Act:

(1) "Alternative fuel facility" means a facility constructed in Kentucky on or after July 1, 2008, that:

(a) Produces alternate transportation fuels as defined in KRS 152.715;

(b) Produces synthetic natural gas as defined in KRS 152.715; or

(c) Generates chemical feedstocks, or liquid fuels, including but not limited to methane, methanol, or nitrogen fertilizer, from coal through a gasification process and may generate electricity as a by-product; and

(2) "Energy efficiency project" means a project undertaken by a person engaged in manufacturing whereby the person purchases machinery or equipment that reduces the consumption of energy or energy-producing fuels used in the manufacturing process by at least fifteen percent (15%) per year measured in megawatts, gallons, or other measurable units of energy, while maintaining or increasing the number of units produced for that same period. For purposes of this subsection, "machinery or equipment" shall not include:

(a) Windows, lighting, or other improvements to buildings; or

(b) Repair and replacement parts; and

(3) "Renewable energy facility" means a facility constructed in Kentucky on or after July 1, 2008, that utilizes:

(a) Wind power, biomass resources as defined in KRS 152.715, or hydropower to generate electricity in excess of one (1) megawatt; or

(b) Solar power to generate electricity in excess of fifty (50) kilowatts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding all other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale, rental, storage, use, or other consumption of tangible personal property used to construct, repair, renovate, or upgrade an alternative fuel facility or a renewable energy facility as defined in Section 2 of this Act, including building materials, machinery, equipment, and repair and replacement parts, if the alternative fuel facility or renewable energy facility has been previously approved by the department under Section 4 of this Act.

(2) This section shall not apply to:

(a) Sales or purchases made prior to the approval of the alternative fuel facility or renewable energy facility by the department; or

(b) Sales or purchases made after December 31, 2020.

SECTION 4. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Any person establishing or operating an alternative fuel facility or a renewable energy facility in Kentucky may apply for an exemption certificate under which purchases related to the sale, rental, storage, use, or other consumption of tangible personal property used to construct, repair, renovate, or upgrade an alternative fuel facility or a renewable energy facility shall be exempt from taxes imposed by this chapter.

(2) An application for an alternative fuel facility or a renewable energy facility exemption certificate shall be filed with the department and shall contain:

(a) Plans and specifications for the facility;

(b) A list of the materials to be incorporated into the construction of the facility;

(c) A descriptive list of all machinery and equipment to be installed at the facility;

(d) An estimate of the tax exemption which the company expects to claim over the life of the exemption; and

(e) Any other information required by the department for the proper administration of this section.

(3) Upon receipt of the application, the department shall notify the Office of Energy Policy in writing that an application for an alternative fuel facility or a renewable energy facility exemption has been received.

(4) Prior to granting approval, the department shall consult with the Office of Energy Policy to determine if the proposed facility meets the definition of an alternative fuel facility or a renewable energy facility. The department shall not grant an approval for tax exemption under Section 3 of this Act before July 1, 2008.

(5) If the alternative fuel facility or renewable energy facility for which an exemption certificate has been issued ceases to be used for the purpose for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the department, and the department shall revoke the certificate of exemption immediately.

(6) (a) On or before July 30, 2009, and every July 30 thereafter, the holder of the alternative fuel facility or renewable energy facility exemption certificate shall report to the department, on a form provided by the department, the amount of the exemption claimed in the previous twelve (12) months.

(b) If the holder of the certificate of exemption fails to file the required annual report on or before the due date, the department shall give written notice, by certified mail, to the certificate holder that the certificate of exemption shall be revoked within sixty (60) days from the receipt of the notice, unless the holder of the certificate provides sufficient written documentation demonstrating compliance with the requirements of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 139.770 and 134.580(3), a person engaged in manufacturing and located in this state shall be entitled to a refund equal to the amount of Kentucky sales or use tax paid on the purchase of machinery or equipment purchased on or after July 1, 2008, for an energy efficiency project if the person:

(a) Files an application for approval with the department prior to purchasing the machinery or equipment; and

(b) Files an application for refund with supporting documentation within sixty (60) days from the time the tax was paid.

(2) The burden of proof that the purchase of the machinery or equipment resulted in a decrease in the consumption of energy or energy-producing fuel is upon the purchaser.

(3) Interest shall not be allowed or paid on any refund made under this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 131.190, on or before December 1, 2008, and every December 1 thereafter, the department shall report to the Legislative Research Commission:

(1) The number of applications approved for an alternative fuel facility or a renewable energy facility, the name of the applicant, a description of the facility, and, based upon the applications filed, an estimate of the tax exemption each company will claim;

(2) The number of alternative fuel facilities or renewable energy facilities claiming exemptions, the names of persons claiming the exemption, and the amount of the exemption each person has claimed;

(3) The names of revoked certificate holders and number of certificates of tax exemption revoked under Section 4 of this Act;

(4) The names of applicants and number of applications received for approval of a sales or use tax refund for purchases for an energy efficiency project under Section 5 of this Act; and

(5) The names and total number of persons who have filed for a sales or use tax refund for purchases for an energy efficient project and the amount of the refund each person has claimed.

Section 7. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant ***or an alternative fuel facility as defined in Section 2 of this Act***;

(b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, 141.040, or 141.0401; and

(c) ***1.*** Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity***; or***

2. Purchases or severs and uses coal that is subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the use in an alternative fuel facility.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased ***or severed and used*** that is subject to tax under KRS 143.020 and that is used to generate electric power ***or used as fuel for an alternative fuel facility***.

(3) Incentive tons are calculated as the tons of coal purchased ***or severed and used*** in the current year for which coal severance tax was paid minus the tons of coal purchased ***or severed*** and used during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the Department of Revenue. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased ***or severed and used*** in the base year and the tons of coal purchased ***or severed and used*** in the year for which the credit is being claimed. The Department of Revenue shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Department of Revenue under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) The credit shall first be applied against both the taxes imposed by KRS 141.020 or 141.040 and the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205;

(b) The credit shall next be applied to the taxes imposed by KRS 136.070; and

(c) Any remaining credit shall be applied against the taxes imposed by KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The Department of Revenue shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 8. KRS 141.0406 is amended to read as follows:

Except in the case of an alternative fuel facility as defined in Section 2 of this Act, the Coal Incentive Credit authorized under KRS 141.0405 shall be allowed for ten (10) consecutive years beginning on July 15, 2001. ***In the case of an alternative fuel facility, the Coal Incentive Credit shall be allowed for tax periods beginning after December 31, 2008, and ending before January 1, 2021.*** Continuation of the credit authorized under this section shall require reauthorization by the General Assembly.

Section 9. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two

(2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation, a partnership, and a limited partnership if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, limited partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by***:***~~[means of]~~

(a) Combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal; ***or***

(b) A renewable energy facility as defined in Section 2 of this Act;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health

insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;

(17) ***(a)*** "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including***:***

1. The processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; ***and***[~~ however,~~]

2. The processing and conversion of coal and other minerals used by an approved alternative fuel facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process;

(b) "Manufacturing" shall not include mining***;***[~~,~~] coal or mineral processing, ***except as provided in subparagraph 2. of paragraph (a) this subsection;*** or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;

(23) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(24) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 10. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Affiliate" has the same meaning as in KRS 154.22-010;

(2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(3) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(5) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within

the Department of Workforce Investment within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Economic development project" or "project" means:

(a) A new or expanded service or technology activity conducted at a new or expanded site by:

1. An approved company; or

2. An approved company and its affiliate or affiliates; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(9) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(10) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(11) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(12) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(13) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(14) "Local government" means a city, county, or urban-county government;

(15) ***(a)*** "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include***:***

1. Any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities;[~~ however,~~]

2. The processing and conversion of coal and other minerals used by an approved alternative fuel facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process; and

3. The generation of electricity by a renewable energy facility as defined in Section 2 of this Act;

(b) "Manufacturing" shall not include mining***;***[~~,~~] the extraction of minerals or coal***;***[~~,~~] or processing of these resources***, except as provided in subparagraph 2. of paragraph (a) of this subsection***;

(16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(18) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(20) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(21) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

(22) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(23) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

(24) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;

(25) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project;

(26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 11. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" has the same meaning as in KRS 154.22-010;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) *(a)* "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including*:*

1. The processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities;~~[however,]~~

2. The processing and conversion of coal and other minerals used by an approved alternative fuel facility, as defined in Section 2 of this Act, in the production of alternate transportation fuels as defined in KRS 152.715, synthetic natural gas as defined in KRS 152.715, or chemical feedstocks or liquid fuels derived from coal through a coal gasification process; and

3. The generation of electricity by a renewable energy facility as defined in Section 2 of this Act;

(b) "Manufacturing" shall not include mining*;*~~[,]~~ coal or mineral processing***; except as provided in subparagraph 2. of paragraph (a) of this subsection***, or extraction of minerals;

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(18) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and

(19) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401.

SECTION 12. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

From a list of potential sites developed by the Office of Energy Policy (OEP) and suitable for development of alternative fuel facilities or renewable energy facilities as defined in Section 2 of this Act, the OEP may expend state funds for preliminary environmental and baseline assessments, inventories, and other activities on or for the potential sites in furtherance of environmental or other permitting required for the development of a facility.

Section 13. This Act is in accordance with the findings and determinations of the General Assembly set out in KRS 152.710. The purposes of this Act are to ensure that the Commonwealth is in the forefront of national efforts to achieve energy independence through reducing the state's reliance on imported oil and increasing the domestic production and use of alternate transportation fuels; synthetic natural gas; fuels such as methane, methanol, or nitrogen fertilizer produced through coal gasification; and electricity generated with solar power, wind power, biomass resources, or hydropower.

Section 14. Sections 7 to 11 shall apply to tax years beginning after December 31, 2008.

The Committee Amendment No. 1 Title to **HB 5** is as follows:

HB 5, Amend the title to read "AN ACT relating to energy independence.".

The Committee on Appropriations and Revenue reported **HB 1** and **HB 244,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to appropriations and other measures line-item vetoed by the Governor at the 2006 Regular Session, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.2254 is amended to read as follows:

(1) Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:

(a) The secretary of the Personnel Cabinet shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the summary plan description for public employees covered under the self-insured plan. Prior to filing an administrative regulation with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review;

(b) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;

(c) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;

(d) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;

(e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;

(f) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;

(g) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.

(2) In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2007, the Personnel Cabinet shall offer a health reimbursement account for public employees insured under the Public Employee Health Insurance Program.

(a) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet, but not less than one hundred seventy-five dollars ($175), for that employee as an employer contribution to the health reimbursement account.

(b) The administrative fees associated with the health reimbursement account shall be an authorized expense to be charged to the public employee health insurance trust fund.

(3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. The trust fund shall not utilize funds for any other purpose, except by approval of the General Assembly. The following moneys shall be directly deposited into the trust fund:

1. Employer and employee premiums collected under the self-insured plan;
2. Interest and investment returns earned by the self-insured plan;
3. Rebates and refunds attributed to the self-insured plan; and
4. All other receipts attributed to the self-insured plan.

(b) Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraph (a) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund.

(c) The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles***, shall be paid for by the trust fund,*** and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.

(d) ***Within forty-five (45) days of the end of each calendar quarter,*** the secretary of the Personnel Cabinet shall file a report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006. The report shall include the following:

1. The current balance of the trust fund;
2. A detailed description of all income to the trust fund since the last report;
3. A detailed description of any receipts due to the trust fund;
4. A total amount of payments made for medical claims from the trust fund;
5. A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;
6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;
7. Any other information the secretary may include;
8. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and
9. In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:
    a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;
    b. A statement of any other trust fund liabilities;
    c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes;
    d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months; and
    e. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:
        i. Any results or outcomes of disease management and wellness programs;
        ii. Results of case management audits and educational and communication efforts; and
        iii. Comparison of actual measurable results to contract performance guarantees.

Section 2. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 1. Office of the Governor, at page 1143, is amended to read as follows:

1. OFFICE OF THE GOVERNOR

	2006-07	2007-08
General Fund	9,734,400	9,816,100
Restricted Funds	388,200	388,200
TOTAL	10,122,600	10,204,300

(1) Housing Allowance for the Lieutenant Governor: Included in the above General Fund appropriation for the Office of the Governor and Lieutenant Governor's Office, is $2,500 monthly as a housing allowance.

(2) Governor's Scholars Program: Included in the above General Fund appropriation is $2,180,100 in fiscal year 2006-2007 and $2,297,800 in fiscal year 2007-2008 for the Governor's Scholars Program.

(3) Employees of Governor's Scholars Program, Inc.: For the purposes of salary and fringe benefits, employees of Governor's Scholars Program, Inc. shall be considered state employees.

Section 3. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 4. Homeland Security; (3) Grant Recipient Report, at page 1144, is amended to read as follows:

(3) Grant Recipient Report: The Kentucky Office of Homeland Security shall***, within 15 days of the final award of grants,*** report the list of recipients to the Legislative Research Commission.

Section 4. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 8. Military Affairs; (4) Patton Museum, at page 1146, is amended to read as follows:

(4) Patton Museum: Included in the above General Fund appropriation is an additional $500,000 in fiscal year 2006-2007 ***and $500,000 in fiscal year 2007-2008*** for the Kentucky Commission on Military Affairs to provide funds for a grant to support the operations of the Patton Museum. The Department of Military Affairs shall provide administrative support for this activity. ***It is the intent of the 2007 General Assemby that this appropriation shall be a one-time biennial appropriation and is***

not intended to be recurring.

Section 5. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 11. Governor's Office for Local Development, at pages 1147 and 1148, is amended to read as follows:

11. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

	2006-07	2007-08
General Fund	13,498,500	20,887,400
Restricted Funds	2,585,600	2,085,600
Federal Funds	55,564,200	55,564,200
TOTAL	71,648,300	78,537,200

(1) **Flood Control Matching Fund Project Review:** The Governor's Office for Local Development shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Environmental and Public Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

(2) **Owenton/Owen County Natural Gas Line Project:** Included in the above General Fund appropriation is $234,000 in fiscal year 2007-2008 to provide new debt service for the Owenton/Owen County Natural Gas Line Project as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Support of the 12 Multicounty Regional Industrial Park Authorities:** Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2006-2007 and $300,000 in fiscal year 2007-2008 in support of the 12 multicounty regional industrial park authorities. Funds shall be distributed equally to the 12 multicounty regional industrial park authorities for marketing and maintenance of the industrial parks and the procurement of property and casualty insurance on the parks.

(4) **Buckhorn Children's Home:** Included in the above Restricted Funds appropriation is $500,000 in fiscal year 2006-2007 for a grant to the Buckhorn Children's Home.

(5) **Prior Year Funded Community Development Projects:** Notwithstanding any statutory provision or agreement between a state agency and any local government to the contrary, any fund balance remaining in any Community Development Project appropriated in 2000 Ky. Acts ch. 549, Part II, Section R, remain authorized and may be retained by the local entity and expended in a manner consistent with the intent and purpose of the appropriation. The Secretary of the Finance and Administration Cabinet, pursuant to KRS 48.500, shall make any determination necessary to effect this provision.

(6) **Debt Service - Warren County Fiscal Court - Transpark - Rail Spur:** Included in the above General Fund appropriation is $422,000 in fiscal year 2007-2008 for debt service to support $4,500,000 Bond Funds for the Warren County Fiscal Court Transpark, for Rail Spur and Infrastructure Improvements, as set forth in Part II, Capital Projects Budget, of this Act.

(7) **Jessamine County Fiscal Court - Building Restoration in Nicholasville:** Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for a grant to Jessamine County Fiscal Court for building restoration in Nicholasville.

(8) **Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia:** Included in the above General Fund appropriation is $100,000 in fiscal year 2006-2007 for a grant to Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia.

(9) **Scott County Fiscal Court - Buffalo Park Improvement and Infrastructure:** Included in the above General Fund appropriation is $150,000 in fiscal year 2006-2007 for a grant to Scott County Fiscal Court for the Buffalo Park Improvement and Infrastructure.

(10) **City of Covington - Timestar Commons - Planning:** Included in the above General Fund appropriation is $250,000 in fiscal year 2006-2007 for a grant to the City of Covington for Timestar Commons planning.

(11) **City of Ludlow - Municipal Meeting Center:** Included in the above General Fund appropriation is $225,000 in fiscal year 2006-2007 for a grant to the City of Ludlow for Phases I through III of the upgrade and renovation of the Municipal Meeting Center.

(12) **Richmond Arts Council:** Included in the above General Fund appropriation is $100,000 in fiscal year 2006-2007 and $100,000 in fiscal year 2007-2008 for a grant to the Richmond Arts Council.

(13) **Debt Service - Community Development Fund Projects:** Included in the above General Fund appropriation is $7,045,000 in fiscal year 2007-2008 for debt service to support $75,658,000 in Bond Funds for the Community Development Fund Projects, as set forth in Part II, Capital Projects Budget, of this Act.

(14) Debt Service - Louisville Zoo - Glacier Run: Included in the above General Fund appropriation is $561,000 in fiscal year 2007-2008 for debt service on $6,000,000 in Bond Funds for the Louisville Zoo - Glacier Run project as set forth in Part II, Capital Projects Budget, of this Act.

Section 6. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 22. Agriculture, at pages 1153 and 1154, is amended to read as follows:

22. AGRICULTURE

	2006-07	2007-08
General Fund	19,803,100	21,529,700
Restricted Funds	4,937,200	4,548,900
Federal Funds	3,947,400	3,889,200
TOTAL	28,687,700	29,967,800

(1) **Breathitt Veterinary Center and Diagnostic Laboratories:** Included in the above General Fund appropriation is $478,500 in fiscal year 2006-2007 and $478,500 in fiscal year 2007-2008 for the Breathitt Veterinary Center at Murray State University and $478,500 in fiscal year 2006-2007 and $478,500 in fiscal year 2007-2008 for the University of Kentucky for the diagnostic laboratories.

(2) **Enforcement of Tobacco Product Sale Restrictions:** Included in the above General Fund appropriation is $260,000 in fiscal year 2006-2007 and $260,000 in fiscal year 2007-2008 to carry out the provisions of KRS 438.335.

(3) **Purchase of Agricultural Conservation Easement (PACE) Program:** The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary. The Department of Agriculture may receive funds from local and private sources to match Federal Funds for the Purchase of Agricultural Conservation Easement (PACE) Program.

(4) **Metrology Lab Operating Fees:** The Department of Agriculture may promulgate administrative regulations establishing license fees, testing fees, and any other fees necessary to operate and maintain a metrology lab in the Department of Agriculture. These Restricted Funds receipts shall be utilized for personnel and operations of the metrology lab.

(5) **County Fair Grants:** Included in the above General Fund appropriation is $495,000 in fiscal year 2006-2007 and $495,000 in fiscal year 2007-2008 to support the capital improvement grants to the Local Agricultural Fair Program.

(6) Debt Service: Included in the above General Fund appropriation is $462,000 in fiscal year 2007-2008 for debt service to support new bonds for Animal Shelters as set forth in Part II, Capital Projects Budget, of this Act.

Section 7. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 28. Kentucky River Authority; (2) Debt Service - Kentucky River Locks and Dams Maintenance and Renovations Pool, at page 1159, is amended to read as follows:

(2) **Debt Service - Kentucky River Locks and Dams Maintenance and Renovations Pool:** Included in the above *General Fund appropriation is $1,630,000 in fiscal year 2007-2008 for debt service on $17,500,000 in Bond Funds, and in the* Restricted Funds appropriation $3,092,000 in fiscal year 2007-2008 for debt service on $33,200,000 in Agency Bond Funds for the Kentucky River Locks and Dams Maintenance and Renovations Pool, as set forth in Part II, Capital Projects Budget, of this Act. The Agency Bonds may be issued by the State Property and Buildings Commission or the Kentucky Asset Liability Commission.

Section 8. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 29. School Facilities Construction Commission, at pages 1159 and 1160, is amended to read as follows:

29. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2006-07	2007-08
General Fund	107,589,000	117,974,500

(1) **Debt Service:** Included in the above General Fund appropriation is $1,688,000 in fiscal year 2006-2007 and $8,439,000 in fiscal year 2007-2008 for debt service on $150,000,000 in bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Growth Nickel Levy:** The Facilities Support Program of Kentucky is fully funded in the 2006-2008 fiscal biennium. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

(3) **School Facility Revenue:** A local board of education may commit an equivalent tax rate not to exceed five cents in addition to the taxes levied in KRS 157.440(1)(b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year and shall not be equalized with state funding. The levy shall be subject to recall.

(4) **Urgent Need School Trust Fund:** The Urgent Need School Trust Fund is established in the Finance and Administration Cabinet for the purpose of assisting school districts that have urgent and critical construction needs. The Urgent Need School Trust Fund shall be administered by the School Facilities Construction Commission. The fund may receive state appropriations, contributions, and grants from any source which shall be credited to the trust fund and invested until needed. All interest earned on the fund shall be retained in the trust fund. Notwithstanding KRS 45.229, moneys in the trust fund shall not lapse, but shall carry forward at the end of each fiscal year.

The Secretary of the Finance and Administration Cabinet, the Commissioner of Education, and the Executive Director of the School Facilities Construction Commission shall jointly establish an Urgent Need School Trust Fund Advisory Committee to develop guidelines for the distribution of funds and to advise the School Facilities Construction Commission on the distribution of funds from this trust fund. Funds may be distributed to local school districts to address anomalies in the existing school construction funding formulas as direct grants, loans, matching funds, additional offers of assistance to address districts' unmet needs, or as equalization funds in situations where school districts have levied additional taxes for school construction purposes. The guidelines developed for distribution of funds from this trust fund shall be developed and presented to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education no later than September 31, 2006. Area Vocational Centers shall be eligible to participate in the Urgent Need School Trust Fund. Included in the above appropriation is $5,000,000 in fiscal year 2007-2008 for the Urgent Need School Trust Fund that may be distributed after July 1, 2007. In addition, funds authorized in subsections (1) and (6) of this section may be distributed to local school districts based on the guidelines developed by the Urgent Need School Trust Fund Advisory Committee after July 1, 2007.

(5) **Offers of Assistance:** Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

(6) **Additional Offers of Assistance:** Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2006-2008 biennium in anticipation of debt service availability during the 2008-2010 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2006-2008 biennium.

(7) Debt Service: Notwithstanding KRS 45.229, moneys appropriated for debt service shall not lapse but shall be credited to the Urgent Need School Trust Fund.

(8) **Administrative Costs:** The School Facilities Construction Commission may utilize up to $300,000 in each fiscal year of the 2006-2008 biennium for administrative purposes.

(9) **School Facilities Evaluation:** The Kentucky Department of Education, in partnership with the School Facilities Construction Commission, shall conduct a comprehensive evaluation of the current facilities planning process, the process for categorizing schools for planning and funding purposes, major plant maintenance planning and implementation, the process used to determine unmet school facility needs, and the degree of equity in the distribution of state capital funds. The department shall involve local superintendents, finance officers, facility managers and other local school personnel, consultants who are knowledgeable in school facilities planning and construction, and others as deemed appropriate.

The evaluation shall consider:

(a) The feasibility of adding weights for special needs or situations, including but not limited to student growth, inadequate classroom space, student accommodations, health and safety needs, compliance with the Americans with Disabilities Act, school district size, and overall building condition as certified by the Department of Education, in the calculation of unmet needs;

(b) The adequacy of long-range planning for plant maintenance, procedures for improving long-range planning, and the appropriate level of monitoring by local and state officials;

(c) Measurable, objective criteria for categorizing schools for local planning purposes and for the distribution of state capital funds;

(d) A waiver system to accommodate special facility needs;

(e) The level of technical assistance and training that is necessary to ensure that local school district personnel are knowledgeable of the facility planning process, capital construction funding mechanisms, and long-range planning and examine the most effective methods for proving technical assistance and training; and

(f) A detailed review of all capital funding sources, and a study of local effort, to include an examination of the individual and cumulative effect of multiple funding sources on the equitable distribution of state capital construction funds and the effects of permitting individual school districts to levy additional taxes for construction purposes based on special or unique circumstances in that school district.

Notwithstanding KRS 157.622, the School Facilities Construction Commission , in cooperation with the Urgent Need School Trust Fund Advisory Committee, shall incorporate the findings and recommendations of this evaluation in determining the 2006 Offers of Assistance to local school districts. The School Facilities Construction Commission is authorized to make the 2006 Offers of Assistance prior to completion of this evaluation if sufficient data and other information is available.

A preliminary report shall be made to the Interim Joint Committee on Appropriations and Revenue no later than September 15, 2006, and a final report, including recommendations for regulatory or statutory change, shall be made no later than September 30, 2006.

(10) **Use of Local District Capital Outlay Funds:** Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2006-2007 and fiscal year 2007-2008 without forfeiture of the district's participation in the School Facilities Construction Commission Program.

Section 9. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; B. Commerce Cabinet; 5. Parks, at pages 1163 and 1164, is amended to read as follows:

5. PARKS

	2006-07	2007-08
General Fund	27,978,400	31,145,400
Restricted Funds	55,217,700	56,335,600
TOTAL	83,196,100	87,481,000

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

(2) Debt Service: Included in the above General Fund appropriation is $3,167,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Nicholas Hildreth School:** Included in the above Restricted Funds appropriation is $60,000 in fiscal year 2006-2007 to move the Nicholas Hildreth School to Blue Licks Battlefield State Park.

(4) Buckhorn Lake State Park: Included in the above Restricted Funds appropriation is $125,000 in fiscal year 2006-2007 to construct boat slips at Buckhorn Lake State Park.

Section 10. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; B. Commerce Cabinet; 7. State Fair Board, at page 1164, is amended to read as follows:

7. STATE FAIR BOARD

	2006-07	2007-08
General Fund	396,800	553,800
Restricted Funds	37,058,600	37,821,900
TOTAL	37,455,400	38,375,700

(1) **Debt Service:** Included in the above Restricted Funds appropriation is $4,322,100 in fiscal year 2006-2007 and $4,424,400 in fiscal year 2007-2008 for previously issued bonds.

(2) Debt Service: Included in the above General Fund appropriation is $157,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

Section 11. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; D. Department of Education; 2. Operations and Support Services, at page 1167, is amended to read as follows:

2. OPERATIONS AND SUPPORT SERVICES

	2006-07	2007-08
General Fund	36,925,500	56,074,400
Restricted Funds	7,210,100	7,210,100
Federal Funds	8,527,800	8,527,800
TOTAL	52,663,400	71,812,300

(1) **Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is $2,705,600 in fiscal year 2006-2007 and $2,840,900 in fiscal year 2007-2008 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

(2) Debt Service: Included in the above General Fund appropriation is $8,898,000 in fiscal year 2007-2008 to provide for debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act. Included in the $8,898,000 is $620,000 in fiscal year 2007-2008 to provide debt service for new bonds for a high-speed education telecommunications network that supports a set of seamless P-16 management, instructional, and research applications. The network shall consist of 100 MBPS to at least 40 percent of Kentucky's local school districts and at least ten MBPS to the remaining local school districts. Included in the $8,898,000 is $696,000 in fiscal year 2007-2008 to provide debt service for a functionally robust and modern system to ensure the efficient collection and management of student information, including a unique student identifier, at the school, district, and state levels. Included in the $8,898,000 is $1,044,000 in fiscal year 2007-2008 to provide debt service for a Web-based, on-line testing program that provides a quicker return of test results, student accountability, and assessment integration into teaching and learning situations on a real-time basis. Included in the $8,898,000 is $229,000 in fiscal year 2007-2008 to provide debt service for a knowledge management portal that will provide K-12 public educators with intuitive access to indexed, aligned, and well-organized Web-based instructional resources such as units of study that connect curriculum, instruction, and assessment with other data generated by schools and the Kentucky Department of Education. Included in the $8,898,000 is $6,069,000 in fiscal year 2007-2008 to provide debt service for the purchase of modern workstations, stationary or mobile, for public K-12 schools to support advanced instructional activities, including on-line learning and Internet 2 instructional activities. The Kentucky Board of Education shall approve a plan for distribution of the workstations. Included in the $8,898,000 is $144,000 in fiscal year 2007-2008 to provide debt service for the Rockcastle County Vocational and Technical Center. Included in the $8,898,000 is $96,000 in fiscal year 2007-2008 to provide debt service for the Letcher County Central Vocational Center.

(3) **School Technology in Coal Counties:** Included in the above Restricted Funds appropriation is $5,000,000 in each

fiscal year from the Local Government Economic Development Multi-County Fund for the purpose of enhancing education technology in local school districts within coal-producing counties. The Commissioner of the Department of Education is authorized to use up to $1,000,000 of the above $5,000,000 appropriation in each fiscal year to make offers of assistance to qualifying local school districts in coal-producing counties to fund technology projects; to be eligible for these offers of assistance, local school districts may be required to provide a match of not more than two to one from any of their other funding courses. The Commissioner of the Department of Education shall use $2,500,000 of the above $5,000,000 appropriation to continue the Coal County Computing program. The Commissioner of the Department of Education shall distribute the remainder of the above $5,000,000 appropriation to coal-producing counties in a manner consistent with distributions to local school districts from the Kentucky Education Technology System; these funds shall be in addition to any regular distribution to coal-producing counties from the Kentucky Education Technology System.

(4) **Education Technology Program:** Included in the above General Fund appropriation is $19,500,000 in each fiscal year for the Education Technology Program.

Section 12. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; G. Finance and Administration Cabinet; 6. Commonwealth Office of Technology, at page 1184, is amended to read as follows:

6. COMMONWEALTH OFFICE OF TECHNOLOGY

	2006-07	2007-08
Restricted Funds	61,168,500	62,962,400
Federal Funds	863,100	775,000
TOTAL	62,031,600	63,737,400

(1) Reporting Requirements: The Commonwealth Office of Technology shall report semiannually to the Interim Joint Committee on Appropriations and Revenue the number of sole-source contracts, amounts awarded for sole-source contracts, and the purposes of the sole-source contracts; and the number of contract employees, the amount expended for contract employees, the projects contract employees worked on, and a justification why state merit employees were not used.

Section 13. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; H. Cabinet for Health and Family Services; 6. Health Policy, at page 1194, is amended to read as follows:

6. HEALTH POLICY

	2006-07	2007-08
General Fund	636,000	625,600
Restricted Funds	605,700	622,400
TOTAL	1,241,700	1,248,000

(1) Voluntary Relinquishment of a Certificate of Need or Licensure: Notwithstanding KRS 216B.061, following the voluntary closure of a health-care facility, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

Section 14. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; H. Cabinet for Health and Family Services; 10. Community Based Services, at pages 1195 and 1196, is amended to read as follows:

10. COMMUNITY BASED SERVICES

	2005-06	2006-07	2007-08
General Fund (Tobacco)	-0-	6,970,400	7,420,400
General Fund	-0-	316,033,500	341,729,700
Restricted Funds	-0-	133,505,800	136,301,300
Federal Funds	4,900,300	511,118,200	523,230,400
TOTAL	4,900,300	967,627,900	1,008,681,800

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $6,970,400 in fiscal year 2006-2007 and $7,420,400 in fiscal year 2007-2008 for the Early Childhood Development Program.

(2) **Out-of-Home Care:** Included in the above General Fund appropriation is $7,383,000 in fiscal year 2006-2007 and $22,962,600 in fiscal year 2007-2008 which is necessary to support and sustain the increased number of court-committed children in the care of the Cabinet.

(3) **Criminal Background Investigation Fee Establishment:** The Secretary of the Cabinet for Health and Family Services may promulgate administrative regulations necessary to prescribe criminal background investigation fee amounts which are reflected in the Restricted Funds appropriation above.

(4) **Department for Community Based Services Modernization:** Savings generated through efficiencies achieved from the modernization and streamlining of the Department for Community Based Services shall be redirected to other areas within the Department for Community Based Services to enhance adult protection services and family based services, to

accommodate increased numbers of children in care, and to offset reductions in available federal funding.

(5) **Protection and Permanency Staff Technology Improvements:** Included in the above appropriation is $1,008,300 in General Fund support and $291,700 in Federal Funds in each fiscal year to provide technology improvements for each Adult Protection and Child Protection Services staff, including but not limited to new laptop or desktop computers. In addition, included in the above appropriation is $244,900 in General Fund support and $31,500 in Federal Funds in fiscal year 2006-2007 to provide digital cameras for each Adult Protection and Child Protection Services staff and a printer for each investigative team in each local office to assist in documenting abuse investigations.

(6) **Foster Parent and Adoption Assistance Rate Increases:** Included in the above appropriation to increase Foster Parent and Adoption Assistance daily reimbursement rates beginning on July 1, 2007, is $4,844,500 in General Fund moneys and $3,989,300 in Federal Funds for $3 per day in fiscal year 2007-2008.

(7) **Private Child Care Provider Rate Increases:** Included in the above appropriation to increase Private Child Care Provider reimbursement rates beginning on July 1, 2007, is $2,883,700 in General Fund moneys and $544,800 in Federal Funds for an additional $3 per day in fiscal year 2007-2008.

(8) **Performance Incentives for Hard-to-Place Youth:** Included in the above appropriation is $961,200 in General Fund moneys and $181,600 in Federal Funds in fiscal year 2007-2008 to create a pool to serve hard-to-place youth by providing performance incentives to private child care providers beginning on July 1, 2007.

(9) **Foster Youth Transitional Assistance:** Included in the above General Fund appropriation is $1,000,000 in each fiscal year to provide assistance grants or vouchers to current or former foster youth ages 18 through 23. The maximum total of grants or vouchers per youth shall be $7,500 in any one fiscal year for working youth. Youth may be eligible for an additional grant totaling $2,500 per year while attending a community college or four year college or university. Grants or vouchers from this program shall be utilized by the youth for transitional assistance into independence, including but not limited to housing, clothing, transportation, tuition, medical and dental services, and other expenses for the youth for the transition that the cabinet authorizes. The Cabinet for Health and Family Services shall promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement this program no later than October 1, 2006. *Notwithstanding KRS 45.229, any General Fund moneys for this purpose unexpended in fiscal year 2006-2007 shall not lapse but shall carry forward into fiscal year 2007-2008 for the same purpose.*

(10) **Home of the Innocents:** Included in the above General Fund appropriation is $385,000 in fiscal year 2007-2008 for debt service to support new bonds for a matching grant to Home of the Innocents for Phase II of the Childrens' Village as set forth in Part II, Capital Projects Budget, of this Act. Up to $8,250,000 in funds generated by Home of the Innocents from other public and private sources shall be matched by the Commonwealth.

(11) Brooklawn Child and Family Services: Included in the above General Fund appropriation is $96,000 in fiscal year 2007-2008 for debt service to support new bonds for the Brooklawn Child and Family Services project as set forth in Part II, Capital Projects Budget, of this Act.

Section 15. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 1. Council on Postsecondary Education, at pages 1202 and 1203, is amended to read as follows:

1. COUNCIL ON POSTSECONDARY EDUCATION

	2006-07	**2007-08**
General Fund (Tobacco)	4,431,200	4,691,200
General Fund	56,931,200	95,120,700
Restricted Funds	6,610,700	6,527,900
Federal Funds	19,099,400	19,099,400
TOTAL	87,072,500	125,439,200

(1) Debt Service: Included in the above General Fund appropriation is $27,442,000 in fiscal year 2007-2008 for debt service to support new bonds for capital projects at the colleges and universities as set forth in 2006 Ky. Acts ch. 252, Part II, Capital Projects Budget and Part II, Capital Projects Budget, of this Act.

(2) Debt Service: Included in the above General Fund appropriation is $551,000 in fiscal year 2007-2008 for debt service to support new bonds for Research Support - Lab Renovation, Fit-up, and Equipment at the University of Kentucky and the University of Louisville.

(3) Debt Service: Included in the above General Fund appropriation is $917,000 in fiscal year 2007-2008 for debt service to support new bonds for Information Technology and Equipment Acquisitions.

(4) **Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Adult Education and Literacy Funding Program shall not lapse and shall carry forward.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Science and Technology Funding Program shall not lapse and shall carry forward.

(5) **Strategic Investment and Incentive Trust Funds Interest Income:** Notwithstanding KRS 164.7911, 164.7913,

164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $393,900 in fiscal year 2006-2007 and $393,900 in fiscal year 2007-2008 shall be transferred from Strategic Investment and Incentive Trust Fund accounts included under these statutes to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes: $105,500 in each year of the biennium for the Minority Student College Preparation Program; $188,400 in each year of the biennium for the Southern Regional Board Doctoral Scholars Program; and $100,000 in each year of the biennium for the P-16 Council/Early Math Testing Programs.

(6) **Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(7) Kentucky Science and Technology Corporation: Notwithstanding KRS 45A.020(2), 45A.075, and 164.6017(3), the Kentucky Science and Technology Corporation shall administer the Rural Innovation, the Research and Development, and the Commercialization Funds.

(8) **Ovarian Cancer:** Notwithstanding KRS 164.476, General Fund (Tobacco) dollars in the amount of $775,000 in each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

(9) **Regional Stewardship Funding Program:** Included in the above General Fund appropriation is $1,200,000 in fiscal year 2006-2007 and $3,600,000 in fiscal year 2007-2008 for the Regional Stewardship Funding Program. The funds will be allocated among the six public comprehensive universities. Funds will be used for Regional Stewardship priorities related to collaboration with public elementary and secondary schools and regional economic development initiatives. Allocated funds will be distributed upon submission and approval of a strategic plan which determines stewardship priorities. Each institution shall submit a strategic plan for stewardship activities in priority areas to the Council on Postsecondary Education by close of business January 1, 2007. Within 30 days of receipt of the proposals, the Council on Postsecondary Education shall advise the institutions of any non-compliance or non-conformity and shall work with the institutions to help them qualify for the grants. Each institution shall submit an annual report to the Council on Postsecondary Education and to Interim Joint Appropriations and Revenue Committee by September 1 of each year. The report should include descriptions of stewardship initiatives implemented, use of funds for each initiative, and outcomes of the initiatives.

(10) **Postsecondary Education Debt:** Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has heretofore issued or caused to be issued debt obligations through a not-for-profit corporation or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to make debt obligations issued by university pursuant to this authorization shall be subject to interception of state appropriated funds pursuant to KRS 164A.608.

(11) **Postsecondary Education Employment Status:** Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined in KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

Section 16. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 2. Kentucky Higher Education Assistance Authority, at pages 1203 and 1204, is amended to read as follows:

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2006-07	**2007-08**
General Fund (Tobacco)	800,000	900,000
General Fund	164,624,300	174,304,900
Restricted Funds	39,044,500	36,219,300
Federal Funds	1,726,000	1,726,000
TOTAL	206,194,800	213,150,200

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $58,427,800 in fiscal year 2006-2007 and $60,462,000 in fiscal year 2007-2008 for the College Access Program.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $30,270,100 in fiscal year 2006-2007 and $32,476,200 in fiscal year 2007-2008 for the Kentucky Tuition Grant Program. *All grants shall be awarded pursuant to KRS 164.785, and the applicant must be accepted by or enrolled as a full-time student at a Kentucky independent college or university which is accredited by the Southern Association of Colleges and Schools. A student who was enrolled between July 1, 2003, and the effective date of this Act in a Kentucky independent college or university that is accredited by a regional accrediting association recognized by the United States Department of Education shall remain eligible to receive a grant under this section until a bachelor's degree is attained or until July 1, 2010.*

(3) **Teacher Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $1,777,100 in fiscal year 2006-2007 and $1,777,100 in fiscal year 2007-2008 for the Teacher Scholarship

Program.

(4) Tobacco Settlement Funds: Included in the above General Fund (Tobacco) appropriation is $800,000 in fiscal year 2006-2007 and $900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

(5) Kentucky National Guard Tuition Assistance Program: Included in the above Restricted Funds appropriation is $4,500,000 in fiscal year 2006-2007 and $5,220,000 in fiscal year 2007-2008 for the Kentucky National Guard Tuition Assistance Program.

(6) Kentucky Education Excellence Scholarships (KEES): Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $73,125,000 in fiscal year 2006-2007 and $77,565,300 in fiscal year 2007-2008 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation for KEES is $14,909,100 in fiscal year 2006-2007 and $11,345,800 in fiscal year 2007-2008.

(7) Pharmacy Scholarship Program: Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for the Pharmacy Scholarship Program as set forth in Part XXIV, Pharmacy Scholarship Program, of this Act.

(8) Transactions Involving Property and Assets: Notwithstanding any statute to the contrary, the Kentucky Higher Education Assistance Authority and the Higher Education Student Loan Corporation either jointly or separately, shall obtain authorization from the General Assembly prior to entering into any agreement, transaction, or series of agreements which would result in the transfer of ownership or ultimate managerial decision-making authority regarding the control and investment performance of its property and assets. Nothing contained herein shall prohibit the Kentucky Higher Education Assistance Authority and the Higher Education Student Loan Corporation, either jointly or separately, from, in the usual and regular course of business, pledging or assigning their revenues and assets to improve financial positions, secure obligations, satisfy pledge or trust agreements, or comply with an order of a court of competent jurisdiction.

Section 17. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 3. Eastern Kentucky University, at page 1204, is amended to read as follows:

3. EASTERN KENTUCKY UNIVERSITY

	2006-07	2007-08
General Fund	77,924,000	80,230,200
Restricted Funds	139,565,300	144,065,300
Federal Funds	57,172,800	57,172,800
TOTAL	274,662,100	281,468,300

(1) Debt Service: Included in the above General Fund appropriation is $3,030,200 in fiscal year 2006-2007 and $468,800 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) Community Operations Board: Included in the above General Fund appropriation is $200,000 in fiscal year 2006-2007 and $200,000 in fiscal year 2007-2008 to provide funds to the Community Operations Board for personnel and programmatic operations of the conferencing, meeting, and community areas, and the performing arts center located in Business/Technology Center, Phase II.

The Business/Technology Building, Phase II shall be governed by the Community Operations Board. The Community Operations Board shall consist of 13 members to be appointed as follows: Six by the President of Eastern Kentucky University, four by the Madison County judge/executive, two by the mayor of the City of Richmond, and one by the mayor of the City of Berea. Three of the members appointed by the President of Eastern Kentucky University will serve two year terms and three will serve a one year term. Two of the members appointed by the Madison County judge/executive will serve two year terms and two will serve a one year term. One member appointed by the mayor of the City of Richmond will serve a two year term and one will serve a one year term. The member appointed by the mayor of the City of Berea will serve a two year term. Members of the board will serve without compensation and will not be reimbursed for expenses incurred in performance of their duties. At the first meeting of the fiscal year, the board shall elect a chairman and a vice chairman. The board will establish policies and procedures for board operations and for facility use. ***The board will make all decisions regarding use of the Business/Technology Building, Phase II including the conferencing and community areas and the performing arts center and will make all decisions regarding personnel and programmatic operations of the conferencing and community areas and the performing arts center.*** The board is attached to Eastern Kentucky University for administrative purposes, and the university shall provide all facility maintenance and operations costs.

Section 18. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 11. Kentucky Community and Technical College System, at pages 1207 and 1208, is amended to read as follows:

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2006-07	2007-08
General Fund	212,926,800	226,331,100
Restricted Funds	273,623,700	292,823,500
Federal Funds	144,916,100	153,070,400
TOTAL	631,466,600	672,225,000

(1) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is $28,330,500 in fiscal year 2006-2007 and $29,351,800 in fiscal year 2007-2008 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be $3,100 in fiscal year 2006-2007 and $3,100 in fiscal year 2007-2008. Notwithstanding KRS 95A.200 to 95A.300, $1,000,000 in fiscal year 2006-2007 and $1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be expended on firefighter training, equipment, and support activities. Notwithstanding KRS 95A.200 to 95A.300, an additional $750,000 in fiscal year 2006-2007 and $1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be spent on a comprehensive physical aptitude test program for firefighters.

(2) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.200 to 95A.265, $500,000 in Restricted Funds is provided each fiscal year of the 2006-2008 fiscal biennium for the Firefighters Training Center Fund.

(3) **Health Care Coverage:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for health care coverage for selected Kentucky Community and Technical College System employees. The University of Kentucky may recover up to $1,000,000 in fiscal year 2007-2008 from the Kentucky Community and Technical College System for additional costs associated with providing health insurance coverage to those KCTCS employees who remain in the UK personnel system. Such recovery is allowed only to the extent that UK can provide documented proof that the cost of providing health insurance coverage for those KCTCS employees exceeds collected premiums minus deductions for discounts and rebates.

(4) **Salary Increases:** It is the intent of General Assembly that employees of KCTCS who are in the UK personnel system shall be treated the same with respect to compensation plans and salary increases implemented by KCTCS as all other employees of KCTCS; specifically, KCTCS shall not utilize the practice of providing lower salary increases to KCTCS employees who are in the UK personnel system by offsetting the money paid to UK for the cost of providing health insurance to these employees.

KCTCS shall make no distinction in compensation plans or salary increases among its employees based upon the personnel system to which they belong, except that KCTCS may make up the lower salary increases given in the past to those employees of KCTCS in the UK personnel system which were based upon reimbursing UK for the cost of providing health insurance.

(5) **Family Life Skills Center:** The Kentucky Community and Technical College System is encouraged to provide funds for the Family Life Skills Center at Hazard Community and Technical College - Lees College Campus.

(6) Conveyance of Property: Notwithstanding KRS 164A.575 or KRS Chapter 45A, the Kentucky Community and Technical College System may convey fee simple title to certain of its real property located within the City of Covington, Kentucky, to the Gateway Community and Technical College Foundation, a Kentucky not-for-profit corporation, for future consideration as determined reasonable by the President of the Kentucky Community and Technical College System who is hereby authorized to execute all necessary documents and to take all necessary action to complete the foregoing conveyance.

(7) **Education Programs at Department of Corrections Facilities:** Included in the above General Fund appropriation is $5,800,000 in fiscal year 2006-2007 and $5,800,000 in fiscal year 2007-2008 for education programs at Department of Corrections Facilities. The Kentucky Community and Technical College System (KCTCS) shall continue to be the provider of educational services to the Department of Corrections (DOC). These services include adult basic education classes aimed toward acquiring a general education diploma (GED) and various technical trades aimed toward providing students with certifications and/or diplomas upon completing qualified examinations. The faculty and related staff shall remain employees of KCTCS. KCTCS shall determine curriculum which will facilitate transferability of credits to all Kentucky public postsecondary institutions. KCTCS faculty and related staff shall abide by all rules and regulations of the DOC to ensure that DOC's accreditation requirements and rehabilitation goals are met.

(8) **Maintenance and Operations of New Facilities:** Included in the above General Fund appropriation is $267,800 in fiscal year 2006-2007 for maintenance and operation of new facilities coming on-line.

(9) **North American Racing Academy:** Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for personnel to develop the North American Racing Academy.

Section 19. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 2. Aviation, at pages 1209 and 1210, is amended to read as follows:

2. AVIATION

	2006-07	**2007-08**
Restricted Funds	197,000	172,000
Federal Funds	15,000	15,000
Road Fund	4,000,000	4,000,000
TOTAL	4,212,000	4,187,000

(1) **Operational Costs:** Notwithstanding KRS 183.525(5), the above Restricted Funds appropriation includes operational costs of the program in each fiscal year.

(2) **Aviation Projects:** The Transportation Cabinet, Aviation Development Program shall prioritize *and fund* the

following airport projects from appropriated Road Fund resources ***in the designated fiscal year*** as included in the 2006-2012 Six Year Aviation Plan:

(a)	Bardstown-Nelson County Airport	$1,200,000
(b)	Cynthiana-Harrison County Airport	$500,000
(c)	Fleming-Mason Airport	$2,000,000
(d)	Muhlenberg County Airport	$1,000,000
(e)	Ohio County Airport	$1,000,000
(f)	Big Sandy Regional Airport	$2,500,000
(g)	Leitchfield-Grayson County Airport	$1,000,000
(h)	Madison Airport	$800,000
(i)	Lebanon-Springfield Airport	$1,000,000
(j)	Tompkinsville-Monroe County Airport	$1,000,000
(k)	Danville-Boyle County Airport	$2,000,000
(l)	Muhlenberg County Airport	$2,000,000
(m)	Henderson City County Airport	$1,000,000
(n)	Russell County Airport	$1,500,000
(o)	Powell County Airport	$1,000,000
(p)	Ohio County Airport	$1,500,000
(q)	Russellville-Logan County Airport	$2,000,000
(r)	Falmouth-Pendleton County Airport	$1,000,000

(3) Capital City Airport: No appropriations for the Aviation budget unit or the Military Affairs budget unit shall be utilized for the purpose of studying, planning, or construction of additional runways for, or expansion of, the Capital City Airport.

(4) **Use of Road Fund Resources:** The Cabinet may utilize an amount not to exceed $10,000,000 of its annual Road Fund appropriations for the Department of Aviation, including but not limited to providing the above authorized financial aid to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21).

(5) **Aviation Plan Project Report:** The Secretary of the Transportation Cabinet is directed to report quarterly to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation all activity relating to all aviation projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Aviation Plan. The Transportation Cabinet shall submit the electronic quarterly report in a format prescribed by the Legislative Research Commission.

Section 20. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 4. Highways; (25) Miscellaneous Road Fund Projects; (i) Jefferson County, Louisville Kennedy Bridge, at page 1213, is amended to read as follows:

(i) Jefferson County, Louisville Kennedy Bridge: ***The Transportation Cabinet shall*** complete the painting of the Kennedy Bridge on Interstate 65 in Louisville, Kentucky within the current biennium;

Section 21. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 4. Highways; (25) Miscellaneous Road Fund Projects; (k) Jefferson County Sound Barriers, at page 1213, is amended to read as follows:

(k) Jefferson County Sound Barriers: ***A sound barrier shall be*** installed on the north side of I-264/Watterson Expressway from the west side of the Newburg Interchange going west 1,500 feet. ***The cost related to the installation of the sound barrier shall be funded for $650,000 from the Highway Construction Contingency Account in fiscal year 2006-2007***;

Section 22. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; (3) New Bond Projects, at page 1216, is amended to read as follows:

(3) **New Bond Projects:** Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The sale of bonds to finance four projects, Western Kentucky Veterans Center - Alzheimer's/General Care Unit, Acquire Land for Wendell H. Ford Regional Training Center, School Facilities Construction Commission Offers of Assistance, Louisville Arena, and Highway Bonds, shall occur after July 1, 2006.

The sale of bonds to finance the following projects shall occur after January 1, 2007:

(a) KIA Infrastructure for Economic Development for Coal Producing Counties;
(b) KIA Infrastructure for Economic Development for Non-Coal Producing Counties;
(c) Community Development Projects;
(d) Warren County Fiscal Court Transpark - Rail Spur and Infrastructure Improvements;

(e) Animal Shelters;
(f) Kentucky River Authority Locks and Dams Renovation and Maintenance Pool;
(g) The Louisville Zoo - Glacier Run;
(h) New Horse Park Indoor Arena;
(i) Rockcastle County Vocational and Technical Center;
(j) Petroleum Underground Storage Tank;
(k) CPE Capital Renewal and Maintenance Pool;
(l) KCTCS - Franklin Technology Center Project Expansion; and
(m) All Agency Bond funded projects.

The sale of all other bonds to finance the remaining projects shall occur after July 1, 2007.

Section 23. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; (5) Appropriations for Projects Not Line-Itemized, at pages 1216 and 1217, is amended to read as follows:

(5) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects; Kentucky River Authority Locks and Dams Renovation and Maintenance Pool; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Community Development projects; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects;*the Capital Renewal and Maintenance Bond* Pool; Heritage Land Conservation projects; Flood Control projects; the Parks Renovation Pool; Parks Development Pool; the Statewide Repair, Maintenance, and Replacement Pool; the Education Technology Pool;*the Postsecondary Education Institutions Technology and Equipment Pool; the Postsecondary Education Institutions Research Support/Lab Renovation and Equipment Pool;* the Local District Health Departments Construction Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

Section 24. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 4. Governor's Office for Local Development, at pages 1218 and 1219, is amended to read as follows:

4. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

001.	Owenton/Owen County Natural Gas Line Project		
	Bond Funds	5,000,000	-0-
002.	Flood Control Matching Fund/State Owned Dam Repair		
	General Fund	800,000	800,000
	Restricted Funds	700,000	700,000
	Investment Income	500,000	500,000
	TOTAL	2,000,000	2,000,000
003.	Warren County Fiscal Court - Transpark - Rail Spur		
	Bond Funds	4,500,000	-0-
004.	Leslie County Fiscal Court - Leslie County Six Volunteer Fire Departments - Equipment and Operations		
	Reauthorization and Reallocation ($120,000 Restricted Funds)		

The above project is authorized from a reallocation from the Leslie County Fiscal Court - Equipment and Operations project in 2005 Ky. Acts ch., 173, Part I, A., 9.,b.

005.	Community Development Fund Projects		
	General Fund	20,650,800	8,453,000
	Bond Funds	75,658,000	-0-
	TOTAL	96,308,000	8,453,000
006.	*Louisville Zoo - Glacier Run*		
	Bond Funds	*6,000,000*	*-0-*
007.	Franklin County - Lease		

Section 25. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 8. Agriculture, at page 1219, is amended to read as follows:

8. AGRICULTURE

001. PACE - Agriculture Enhancement Fund - Additional		
Federal Funds	3,600,000	3,600,000
002. Large Scale Test Truck		
Capital Construction Surplus	175,000	-0-
003. Forage Testing Van		
Capital Construction Surplus	115,000	-0-
004. Fuels/Pesticides Testing Lab		
General Fund	-0-	1,650,000
005. Animal Shelters		
Bond Funds	***2,500,000***	***-0-***
006. Franklin County - Lease		

Section 26. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 11. Kentucky River Authority, at page 1220, is amended to read as follows:

11. KENTUCKY RIVER AUTHORITY

001. Kentucky River Locks and Dams Maintenance and Renovations Pool		
Bond Funds	***17,500,000***	***-0-***
Agency Bond Funds	33,200,000	-0-
Restricted Funds	4,600,000	-0-
TOTAL	55,300,000	-0-

Section 27. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; B. Commerce Cabinet; 1. Parks, at page 1220, is amended to read as follows:

1. PARKS

001. Parks Renovation Pool		
Bond Funds	***8,000,000***	***-0-***

(1) Permitted Use of Funds: These Bond Funds may be used for any Department of Parks or Kentucky Horse Park Commission facility owned, leased, or maintained by the Commonwealth.

002. Parks Development Pool		
Bond Funds	60,000,000	-0-

(1) Parks Development Pool: Included in the above Parks Development Pool are the following capital projects in an amount not to exceed the following:

Big Bone Lick State Park	***2,500,000***
Cumberland Falls Resort Park Campground	***5,000,000***
Cumberland Falls Resort Park Golf Course	***9,700,000***
Dale Hollow Resort Park Pool/Villas/Condos/Cabins	***7,900,000***
E. P. "Tom" Sawyer State Park Convention Center	***1,000,000***
Fort Boonesborough State Park Land Acquisition	***1,500,000***
General Burnside State Park Golf and Lodge Infrastructure	***7,250,000***
Grayson Lake State Park Villas/Condos/Cabins/Pavilion	***6,000,000***
Green River Lake State Park Infrastructure/ Development Costs	***4,000,000***
Greenbo Lake Resort Park Cottages	***1,000,000***
Herrington Lake State Park Land Acquisition and Development	***2,500,000***
John James Audubon State Park Campground and Entrance	***2,500,000***
Kincaid Lake State Park Infrastructure	***1,200,000***
Lake Cumberland Resort Park Conference Center	***6,000,000***
Nolin Lake State Park Cottages	***1,000,000***
Yatesville Lake State Park Villas/Condos/Cabins/Pavilion	***6,000,000***

003. Construct Convention Center E. P. "Tom" Sawyer

	Other Funds	1,000,000	-0-
004.	Maintenance Pool		
	Investment Income	2,740,000	3,990,000

Section 28. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; B. Commerce Cabinet; 3. State Fair Board, at page 1221, is amended to read as follows:

3. STATE FAIR BOARD

001.	Replace Roof for the Pavilion		
	Bond Funds	1,250,000	-0-
002.	Maintenance Pool		
	Restricted Funds	1,500,000	1,500,000
003.	***Upgrade HVAC Systems***		
	Bond Funds	***2,000,000***	***-0-***
004.	Replace Paving from Gate 1 to Gate 2		
	Reauthorization ($900,000 Restricted Funds)		
005.	Renovate KICC Pedway System		
	Reauthorization ($1,000,000 Restricted Funds)		
006.	Repave Parking Lots E, J, and Ashton - Adair		
	Reauthorization ($1,330,000 Restricted Funds)		

Section 29. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; D. Department of Education; 1. Operation and Support Services, at pages 1222 and 1223, is amended to read as follows:

1. OPERATIONS AND SUPPORT SERVICES

001.	Kentucky Education Network		
	Bond Funds	8,900,000	-0-

The Secretary of the Education Cabinet, the Commissioner of the Department of Education, the President of the Council on Postsecondary Education, the Secretary of the Finance and Administration Cabinet, and the Executive Director of the Education Professional Standards Board shall submit a coordinated implementation plan with timelines and regular progress reports to the Interim Joint Committee on Appropriations and Revenue. All expenditures shall require the prior approval of the Secretary of the Finance and Administration Cabinet.

002.	***On-Line Assessment***		
	Bond Funds	***15,000,000***	***-0-***
003.	***Knowledge Management Portal***		
	Bond Funds	***3,250,000***	***-0-***
004.	Student Information System		
	Bond Funds	10,000,000	-0-
005.	Maintenance Pool		
	Investment Income	675,000	675,000
006.	Rockcastle County Vocational and Technical Center		
	Bond Funds	1,500,000	-0-
007.	Education Technology Pool		
	Bond Funds	50,000,000	-0-
008.	Letcher County Central Vocational Center		
	Bond Funds	2,000,000	-0-

Section 30. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; H. Health and Family Services Cabinet; 4. Community Based Services, at page 1228, is amended to read as follows:

4. COMMUNITY BASED SERVICES

001. Boone County - Lease
002. Boyd County - Lease
003. Johnson County - Lease
004. Fayette County - Lease - Centre Parkway
005. Shelby County - Lease

006.	Jefferson County - Lease			
007.	Fayette County - Lease			
008.	Kenton County - Lease - Madison Avenue			
009.	Hardin County - Lease			
010.	Campbell County - Lease			
011.	Warren County - Lease			
012.	Kenton County - Lease			
013.	Home of the Innocents - Phase II Children's Village			
	Bond Funds		8,250,000	-0-

(1) **Bond Issuance Contingency:** The amount of bond issuance shall be contingent upon equalizing matching funds being provided from other fund sources.

014.	***Brooklawn Child and Family Services***			
	Bond Funds		***2,000,000***	***-0-***

(1) Brooklawn Child and Family Services: The above appropriation shall be used to purchase, build, renovate, or make improvements for residential housing of children who are in or have completed the treatment program.

Section 31. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 1. Council on Postsecondary Education, at pages 1229 and 1230, is amended to read as follows:

1. COUNCIL ON POSTSECONDARY EDUCATION

001.	***Capital Renewal and Maintenance Pool***			
	Bond Funds	***-0-***	***13,927,000***	***-0-***

(1) Postsecondary Education Capital Renewal and Maintenance Pool Match: The Capital Renewal and Maintenance Pool provides funding for individual projects at Kentucky's public postsecondary institutions to upgrade and replace building systems and infrastructure in education and general facilities. The individual projects funded from this pool shall be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified by the Council. The Council shall determine the allocation of the Capital Renewal and Maintenance Pool among the postsecondary education institutions and report that allocation to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission's Capital Projects and Bond Oversight Committee. The Bond Funds in this pool shall be matched with the institutions' Restricted Funds at varying levels as determined by the Council on Postsecondary Education.

002.	Purchase KYVU/KYVL Electronic Data Bases			
	Restricted Funds	-0-	7,000,000	-0-
003.	Purchase KYVL Integrated Library System			
	Restricted Funds	-0-	4,000,000	-0-
004.	Purchase Interactive Television (ITV) System			
	Restricted Funds	-0-	800,000	-0-
005.	Purchase KYVU Centralized Hosting License			
	Restricted Funds	-0-	750,000	-0-
006.	Purchase KYVL Interlibrary Loan System			
	Restricted Funds	-0-	700,000	-0-
007.	Purchase KYVL Reference Desk Software			
	Restricted Funds	-0-	600,000	-0-
008.	KYVU/KYVL Statewide Software Licenses Pool			
	Restricted Funds	-0-	500,000	-0-
009.	Purchase Postsecondary Education Video Conference System			
	Restricted Funds	-0-	500,000	-0-
010.	Install Website ADA Compliance Restructuring			
	Restricted Funds	-0-	500,000	-0-
011.	Franklin County - Lease			
012.	***Information Technology and Equipment Acquisitions***			
	Bond Funds	***-0-***	***10,000,000***	***-0-***
013.	***Research Support/Lab Renovation and Equipment***			

	Bond Funds	***-0-***	***6,000,000***	***-0-***

Section 32. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 3. Eastern Kentucky University, at pages 1230 and 1231, is amended to read as follows:

3. EASTERN KENTUCKY UNIVERSITY

001.	***Construct New Student Housing***			
	Agency Bonds	***-0-***	***10,520,000***	***-0-***
002.	***EKU-UK Dairy Research Project (Meadowbrook Farm)***			
	Bond Funds	***-0-***	***5,300,000***	***-0-***
003.	Arlington Renovation and Addition			
	Other Funds	-0-	4,000,000	-0-
004.	Library Studio for Academic Creativity			
	Restricted Funds	-0-	-0-	1,500,000
005.	Expand and Renovate Presnell Building - Additional Reauthorization ($1,000,000 Restricted Funds)			
	Restricted Funds	-0-	1,200,000	-0-
006.	Expand Indoor Tennis Facility - Additional Reauthorization ($1,000,000 Restricted Funds)			
	Restricted Funds	-0-	100,000	-0-
007.	Construct E & G Life Safety Begley Elevator Reauthorization ($750,000 Restricted Funds)			
008.	Guaranteed Energy Savings Performance Contracts			
009.	Construct Science Building			
	Bond Funds	-0-	54,108,000	-0-
010.	Construct Manchester Postsecondary Education Center			
	Bond Funds	-0-	3,500,000	-0-

Section 33. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 4. Kentucky State University, at pages 1231 and 1232, is amended to read as follows:

4. KENTUCKY STATE UNIVERSITY

001.	Construct New Young Hall - Phase II			
	Other Funds	-0-	-0-	6,500,000
002.	Construct Center for Training & Learning			
	Federal Funds	-0-	2,755,000	-0-
003.	Upgrade Online Infrastructure			
	Restricted Funds	-0-	2,190,000	-0-
004.	Create Center for Families and Children			
	Federal Funds	-0-	2,022,000	-0-
005.	Acquire Property Related to Master Plan			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	1,000,000	-0-
	TOTAL	-0-	2,000,000	-0-
006.	Roof Repair & Replacement Pool			
	Restricted Funds	-0-	1,520,000	-0-
	Federal Funds	-0-	400,000	-0-
	TOTAL	-0-	1,920,000	-0-
007.	Capital Renewal Pool			
	Restricted Funds	-0-	1,899,000	-0-
008.	Renovate Jackson Hall			
	Restricted Funds	-0-	140,000	-0-
	Federal Funds	-0-	1,488,000	-0-

	TOTAL	-0-	1,628,000	-0-
009.	Upgrade Online Security			
	Restricted Funds	-0-	1,500,000	-0-
010.	Expand Aquaculture Pond Facilities			
	Federal Funds	-0-	1,430,000	-0-
011.	Construct Aquaculture Production Tech Lab			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	200,000	-0-
	TOTAL	-0-	1,200,000	-0-
012.	Life Safety Upgrade Pool			
	Restricted Funds	-0-	1,040,000	-0-
013.	Replace Online Voice - Centrex			
	Restricted Funds	-0-	587,000	-0-
014.	Guaranteed Energy Savings Performance Contracts			
015.	***Expand and Renovate Betty White Nursing Building***			
	Bond Funds	***-0-***	***4,900,000***	***-0-***
016.	Construct New Residence Hall			
	Other Funds	-0-	20,000,000	-0-
017.	Renovate Hathaway Hall, Phase II			
	Bond Funds	-0-	4,920,000	-0-
018.	***Construct Parking Structure***			
	Agency Bonds	***-0-***	***7,000,000***	***-0-***

Section 34. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 5. Morehead State University, at pages 1232 to 1234, is amended to read as follows:

5. MOREHEAD STATE UNIVERSITY

001.	Construct Center for Health, Education, and Research			
	Bond Funds	-0-	23,000,000	-0-
002.	Renovate Jayne Stadium			
	Restricted Funds	-0-	8,400,000	-0-
003.	Construct East Kentucky Animal Science Center			
	Federal Funds	-0-	8,000,000	-0-
004.	Major Item of Equipment Pool			
	Restricted Funds	-0-	2,752,000	3,400,000
005.	Construct Kentucky Mountain Crafts Center			
	Restricted Funds	-0-	5,434,000	-0-
006.	Construct Law Enforcement Complex			
	Federal Funds	-0-	5,215,000	-0-
007.	Upgrade Instructional PCs/LANS/Peripherals			
	Restricted Funds	-0-	5,000,000	-0-
008.	Enhance Network/Infrastructure Resources			
	Restricted Funds	-0-	4,750,000	-0-
009.	Renovate McClure Pool Area			
	Restricted Funds	-0-	4,715,000	-0-
010.	Renovate John Sonny Allen Field			
	Restricted Funds	-0-	4,166,000	-0-
011.	Replace Power Plant Pollution Control System			
	Restricted Funds	-0-	3,540,000	-0-
012.	Capital Renewal Pool - E&G			
	Restricted Funds	-0-	3,480,000	-0-

013.	Renovate Button Auditorium			
	Restricted Funds	-0-	3,000,000	-0-
014.	Upgrade Administrative Office Systems			
	Restricted Funds	-0-	2,500,000	-0-
015.	Acquire Land Related to Master Plan			
	Restricted Funds	-0-	2,000,000	-0-
016.	Construct Softball Facility/Lighting Project			
	Restricted Funds	-0-	1,700,000	-0-
017.	Comply with ADA - E&G			
	Restricted Funds	-0-	850,000	850,000
018.	Capital Renewal Pool -Auxiliary			
	Restricted Funds	-0-	1,618,000	-0-
019.	Upgrade and Expand Distance Learning			
	Restricted Funds	-0-	1,500,000	-0-
020.	Expand Student Wellness Center			
	Restricted Funds	-0-	1,200,000	-0-
021.	Comply with ADA - Auxiliary			
	Restricted Funds	-0-	600,000	600,000
022.	Replace Boiler Tubes			
	Restricted Funds	-0-	800,000	-0-
023.	Reconstruct Central Campus			
	Restricted Funds	-0-	780,000	-0-
024.	Enhance Library Automation Resources			
	Restricted Funds	-0-	670,000	-0-
025.	Expand Life Safety Claypool-Young Building			
	Restricted Funds	-0-	600,000	-0-
026.	Renovate Molecular Biology Student Lab			
	Restricted Funds	-0-	474,000	-0-
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Equine Hospital			
	Restricted		1,069,000	-0-
029.	***Construct Student Recreation Center***			
	Agency Bonds	***-0-***	***17,000,000***	***-0-***
030.	***Renovate Student Housing Facilities***			
	Agency Bonds	***-0-***	***10,000,000***	***-0-***
031.	Space Science Center - Completion			
	Bond Funds	-0-	3,400,000	-0-
032.	***Construct Business Continuance Datacenter***			
	Bond Funds	***-0-***	***2,500,000***	***-0-***

Section 35. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 6. Murray State University, at pages 1234 and 1235, is amended to read as follows:

6. MURRAY STATE UNIVERSITY

001.	New Residential College - Richmond Hall			
	Agency Bonds	-0-	13,077,000	-0-
002.	Capital Renewal E&G Pool			
	Restricted Funds	-0-	12,457,000	-0-
003.	Administrative Enterprise Resource Planning System			
	Restricted Funds	-0-	8,000,000	-0-
004.	Capital Renewal H&D Pool			

	Restricted Funds	-0-	5,445,000	-0-
005.	Renovate Pogue Library			
	Restricted Funds	-0-	4,000,000	-0-
006.	Renovate Ordway Hall			
	Restricted Funds	-0-	3,962,000	-0-
007.	ADA Compliance E&G Pool			
	Restricted Funds	-0-	3,092,000	-0-
008.	Centralized Technology Refresh Program			
	Restricted Funds	-0-	2,600,000	-0-
009.	Telephone Switching System - Additional Reauthorization ($1,525,000 Restricted Funds)			
	Restricted Funds	-0-	1,975,000	-0-
010.	Renovate White Hall HVAC System			
	Restricted Funds	-0-	1,000,000	-0-
011.	Campus Backbone 10 GigE Upgrade			
	Restricted Funds	-0-	775,000	-0-
012.	Construct Open-Sided Stall Barn at Expo Center			
	Restricted Funds	-0-	770,000	-0-
013.	ADA Compliance H&D Pool			
	Restricted Funds	-0-	615,000	-0-
014.	Life Safety Projects E&G Pool			
	Restricted Funds	-0-	590,000	-0-
015.	Central Processing Computer System Upgrade			
	Restricted Funds	-0-	522,000	-0-
016.	Online Centralized Data Access/Warehouse			
	Restricted Funds	-0-	520,000	-0-
017.	Acquire Land			
	Restricted Funds	-0-	501,000	-0-
018.	Renovate A. Carman Pavilion - Phase II			
	Restricted Funds	-0-	500,000	-0-
019.	Renovate Wells Hall Interior			
	Restricted Funds	-0-	500,000	-0-
020.	Construct Public Safety Building- Additional Reauthorization ($1,500,000 Restricted Funds)			
	Restricted Funds	-0-	500,000	-0-
021.	Life Safety Projects H&D Pool			
	Restricted Funds	-0-	300,000	-0-
022.	Abate Asbestos H&D Pool			
	Restricted Funds	-0-	276,000	-0-
023.	Guaranteed Energy Savings Performance Contracts			
024.	Construct New Science Complex - Phase III			
	Bond Funds	-0-	15,000,000	-0-
025.	***Replace Franklin Hall***			
	Agency Bonds	***-0-***	***13,077,000***	***-0-***
026.	***Renovate Curris Center T-Room***			
	Agency Bonds	***-0-***	***750,000***	***-0-***

Section 36. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 7. Northern Kentucky University, at pages 1235 to 1237, is amended to read as follows:

7. NORTHERN KENTUCKY UNIVERSITY

001.	Construct New Student Union			
	Agency Bonds	-0-	17,360,000	-0-
002.	Acquire New Residence Hall			
	Restricted Funds	-0-	10,000,000	-0-
003.	Construct Alumni Welcome Center			
	Other Funds	-0-	7,800,000	-0-
004.	Relocate Master Plan Infrastructure			
	Restricted Funds	-0-	6,130,000	-0-
005.	Acquire Land/Campus Master Plan			
	Restricted Funds	-0-	6,000,000	-0-
006.	Construct Track and Field Stadium			
	Other Funds	-0-	5,500,000	-0-
007.	Construct Soccer Stadium			
	Restricted Funds	-0-	5,500,000	-0-
008.	Major Item of Equipment Pool			
	Restricted Funds	-0-	5,410,000	-0-
009.	Construct Central Plaza Phase II			
	Restricted Funds	-0-	4,900,000	-0-
010.	Replace Power Distribution Infrastructure			
	Restricted Funds	-0-	4,800,000	-0-
011.	Repair Structural Floor Heaving/E&G Buildings			
	Restricted Funds	-0-	4,000,000	-0-
012.	Enhance Instructional Information Technology			
	Restricted Funds	-0-	3,800,000	-0-
013.	E&G Minor Projects Pool			
	Restricted Funds	-0-	3,200,000	-0-
014.	Enhance Information Technology Infrastructure			
	Restricted Funds	-0-	2,900,000	-0-
015.	Housing/Minor Projects Pool			
	Restricted Funds	-0-	2,200,000	-0-
016.	Replace Administrative Application System Phase II			
	Restricted Funds	-0-	2,000,000	-0-
017.	Construct Intramural Fields			
	Restricted Funds	-0-	1,900,000	-0-
018.	Replace E&G Fire Alarm Systems			
	Restricted Funds	-0-	1,400,000	-0-
019.	Relocate Early Childcare Center			
	Restricted Funds	-0-	1,000,000	-0-
020.	Replace Elevators Landrum Hall/Lucas Administrative Center			
	Restricted Funds	-0-	990,000	-0-
021.	Replace Air Handlers			
	Restricted Funds	-0-	980,000	-0-
022.	Restore Albright Health Center Roof			
	Restricted Funds	-0-	680,000	-0-
023.	Replace Business, Education, and Psychology Center Roof			
	Restricted Funds	-0-	680,000	-0-
024.	Enhance Softball Field			
	Restricted Funds	-0-	600,000	-0-

025.	Renovate University Center			
	Restricted Funds	-0-	600,000	-0-
026.	Kenton County - Lease			
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Center for Informatics			
	Bond Funds	-0-	35,500,000	-0-
029.	Construct Parking Garage #3			
	Agency Bonds	-0-	15,400,000	-0-
030.	***Construct Student Housing***			
	Agency Bonds	***-0-***	***23,000,000***	***-0-***
031.	***Expand Norse Commons***			
	Agency Bonds	***-0-***	***1,400,000***	***-0-***

Section 37. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 8. University of Kentucky, at page 1237, is amended to read as follows:

8. UNIVERSITY OF KENTUCKY

001.	Construct Patient Care Facility Phase II - Hospital			
	Restricted Funds	-0-	25,000,000	-0-
	Agency Bonds	-0-	150,000,000	-0-
	TOTAL	-0-	175,000,000	-0-
002.	Construct Biological/Pharmaceutical Complex - Phase II			
	Bond Funds	-0-	79,892,000	-0-
003.	Major Item of Equipment Pool			
	Restricted Funds	-0-	195,164,000	-0-
	Federal Funds	-0-	3,100,000	-0-
	TOTAL	-0-	198,264,000	-0-
004.	Capital Renewal Pool Phase I			
	Restricted Funds	-0-	31,607,000	-0-
005.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital			
	Restricted Funds	-0-	24,271,000	-0-
006.	Lease-Purchase ERP System - Phase II			
	Restricted Funds	-0-	20,000,000	-0-
007.	Expand Ambulatory Care Facilities - Hospital			
	Restricted Funds	-0-	20,000,000	-0-
008.	Construct Primary Care Center II - Hospital			
	Restricted Funds	-0-	17,237,000	-0-
009.	Replace Air Handling Unit I - Hospital			
	Restricted Funds	-0-	16,165,000	-0-
010.	Construct Patient Care Facility II - Hospital			
	Restricted Funds	-0-	15,909,000	-0-
011.	Acquire Land			
	Restricted Funds	-0-	15,000,000	-0-
012.	Construct Facilities Support Building - Hospital			
	Restricted Funds	-0-	14,728,000	-0-
013.	Medicine/Dentistry Building - Design			
	Restricted Funds	-0-	14,000,000	-0-
014.	***Expand and Upgrade LDDC Phase II***			
	Bond Funds	***-0-***	***13,500,000***	***-0-***

Section 38. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 8. University of Kentucky, at page 1251, is amended to read as follows:

	Restricted Funds	-0-	3,310,000	-0-
	TOTAL	-0-	4,310,000	-0-
256.	Renovate Memorial Coliseum			
	Other Funds	-0-	4,731,000	-0-
257.	Construct Commonwealth Stadium Suite Addition			
	Other Funds	-0-	2,300,000	-0-
258.	Construct New Alumni Center			
	Other Funds	-0-	17,344,000	-0-
259.	Gluck Equine Research Center – Phase II – Design			
	Other Funds	-0-	1,500,000	-0-
	Restricted Funds	-0-	2,000,000	-0-
	TOTAL	-0-	3,500,000	-0-
260.	KY Transportation Center Building – Phase I – Design			
	Other Funds	-0-	1,500,000	-0-
	Federal Funds	-0-	2,500,000	-0-
	TOTAL	-0-	4,000,000	-0-
261.	Expand Arboretum Visitor Center			
	Other Funds	-0-	2,870,000	-0-
262.	Biomedical Research Building – Design			
	Restricted Funds	-0-	7,600,000	-0-
263.	Renovate Student Center Food Court			
	Restricted Funds	-0-	1,643,000	-0-
264.	Renovate K-Lair Building			
	Restricted Funds	-0-	4,650,000	-0-
265.	Renovate SECAT Building at Coldstream			
	Restricted Funds	-0-	2,000,000	-0-
266.	Purchase Furniture and Equipment – Patient Care Facility			
	Restricted Funds	-0-	27,000,000	-0-
267.	***Install HVAC - Keeneland Hall***			
	Agency Bonds	***-0-***	***7,013,000***	***-0-***
268.	***Renovate Blazer Hall Cafeteria***			
	Agency Bonds	***-0-***	***3,010,000***	***-0-***
269.	Fayette County - Administrative - Office Lease			
270.	Fayette County - Health Affairs - Office Lease 2			
271.	Fayette County – Health Affairs - Office Lease 3			
272.	Fayette County - Health Affairs - Office Lease			
273.	Fayette County - Lease - Blazer Parkway			
274.	Fayette County - Lease - Med Center Contract			

Section 39. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 9. University of Louisville, at pages 1252 to 1255, is amended to read as follows:

9. UNIVERSITY OF LOUISVILLE

001.	Construct HSC Research Facility Phase III - Additional			
	Bond Funds	-0-	69,680,000	-0-
002.	Construct Center for Predictive Medicine			
	Federal Funds	-0-	22,200,000	-0-
	Agency Bonds	-0-	13,000,000	-0-
	TOTAL	-0-	35,200,000	-0-
003.	Renovate Ekstrom Library			
	Restricted Funds	-0-	22,081,000	-0-

004.	Capital Renewal Pool			
	Restricted Funds	-0-	22,000,000	-0-
005.	Major Item of Equipment Pool			
	Restricted Funds	-0-	100,000	1,700,000
	Federal Funds	-0-	7,501,000	3,290,000
	Other Funds	-0-	6,250,000	2,470,000
	TOTAL	-0-	13,851,000	7,460,000
006.	Expand & Renovate - Founders Union Building			
	Restricted Funds	-0-	12,190,000	-0-
007.	Utility Distribution - South Belknap Campus			
	Restricted Funds	-0-	6,821,000	-0-
008.	Construct Student Health Facility			
	Restricted Funds	-0-	6,650,000	-0-
009.	Renovate Kersey Library			
	Restricted Funds	-0-	4,630,000	-0-
010.	Renovate Medical School Tower - 55A, Phase II			
	Restricted Funds	-0-	4,225,000	-0-
011.	Purchase Digital Communications System			
	Restricted Funds	-0-	4,000,000	-0-
012.	Purchase Real Estate Near Health Sciences Campus - Parcel II			
	Restricted Funds	-0-	3,875,000	-0-
013.	Renovate Code Improvement Pool			
	Restricted Funds	-0-	3,191,000	-0-
014.	Purchase Networking System			
	Restricted Funds	-0-	3,000,000	-0-
015.	Purchase Enterprise Application System			
	Restricted Funds	-0-	2,000,000	-0-
016.	Purchase Computer Processing System			
	Restricted Funds	-0-	2,000,000	-0-
017.	Expand & Renovate Oppenheimer Hall - Additional Reauthorization ($6,276,000 Restricted Funds)			
	Restricted Funds	-0-	1,654,000	-0-
018.	Purchase Electronic Research Information System			
	Restricted Funds	-0-	1,080,000	-0-
019.	Purchase Robotic Telescope System			
	Federal Funds	-0-	1,000,000	-0-
020.	Purchase Storage System			
	Restricted Funds	-0-	1,000,000	-0-
021.	Lease Digital Output System			
	Restricted Funds	-0-	1,000,000	-0-
022.	Lease-Purchase Visualization System			
	Restricted Funds	-0-	1,000,000	-0-
023.	Purchase Artificial Turf Practice Field Facility			
	Restricted Funds	-0-	750,000	-0-
024.	Housing Capital Renewal Pool			
	Restricted Funds	-0-	710,000	-0-
025.	Purchase Health Research Data System			
	Restricted Funds	-0-	700,000	-0-

026.	Renovate Natural Science Building - Additional Reauthorization ($12,840,000 Restricted Funds)			
	Restricted Funds	-0-	540,000	-0-
027.	Shelby Campus Dormitories Demolition			
	Restricted Funds	-0-	436,000	-0-
028.	Purchase New Computers for CBPA			
	Restricted Funds	-0-	300,000	-0-
029.	Purchase PCs, Printers, Scanners			
	Restricted Funds	-0-	200,000	-0-
030.	Purchase Linux Cluster Computer System			
	Restricted Funds	-0-	125,000	-0-
031.	Renovate Chemistry Fume Hood Redesign, Phase II - Additional Reauthorization ($4,534,000 Restricted Funds)			
	Restricted Funds	-0-	76,000	-0-
032.	Construct Athletic Academic Support Facility			
	Other Funds	-0-	5,000,000	-0-
033.	Construct Boathouse for Women's Rowing Program			
	Other Funds	-0-	2,947,000	-0-
034.	Construct Cardinal Club Golf Practice Facility			
	Other Funds	-0-	685,000	-0-
035.	Construct Diversity Center for Excellence			
	Other Funds	-0-	-0-	5,898,000
036.	Construct Executive MBA/Business Program			
	Other Funds	-0-	6,040,000	-0-
	Restricted Funds	-0-	20,500,000	-0-
	TOTAL	-0-	26,540,000	-0-
037.	Construct Glass and Visual Arts Research Center			
	Other Funds	-0-	3,015,000	-0-
038.	Construct Eastern Parkway Improvement			
	Restricted Funds	-0-	2,200,000	-0-
039.	Expand Tragar Field Hockey Stadium			
	Other Funds	-0-	3,200,000	-0-
040.	Expand and Renovate Dental School			
	Other Funds	-0-	2,000,000	-0-
	Restricted Funds	-0-	35,170,000	-0-
	TOTAL	-0-	37,170,000	-0-
041.	Purchase Support Service Land (Northeast Quad)			
	Restricted Funds	-0-	5,095,000	-0-
042.	Renovate PJCS Scoreboard/Video Replacement			
	Other Funds	-0-	1,800,000	-0-
043.	Renovate Life Sciences Building			
	Restricted Funds	-0-	18,240,000	-0-
045.	***Construct HSC Parking Structure II***			
	Agency Bonds	***-0-***	***26,113,000***	***-0-***
046.	***Renovate Miller Hall***			
	Agency Bonds	***-0-***	***11,541,000***	***-0-***
047.	***Renovate Medical/Dental Research Building, Phase IV***			
	Agency Bonds	***-0-***	***19,800,000***	***-0-***
048.	Construct Utilities, Remove Overhead Lines			

Reauthorization ($3,194,000 Restricted Funds)
049. Expand Ambulatory Care Building Academic Addition
Reauthorization ($43,061,800 Restricted Funds)
050. Purchase Real Estate Near HSC and Renovate Offices
Reauthorization ($20,500,000 Restricted Funds)
051. Renovate Shelby Campus Infrastructure
Reauthorization ($8,740,000 Restricted Funds)
052. Jefferson County - Lease
053. Medical Center One - Lease
054. Guaranteed Energy Savings Performance Contracts

Section 40. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 10. Western Kentucky University, at pages 1255 and 1256, is amended to read as follows:

10. WESTERN KENTUCKY UNIVERSITY

001.	Renovate Academic/Athletic #2			
	Restricted Funds	-0-	2,000,000	-0-
	Agency Bonds	-0-	25,500,000	-0-
	Other Funds	-0-	1,000,000	-0-
	TOTAL	-0-	28,500,000	-0-
002.	***Renovate Science Campus Phase III***			
	Bond Funds	***-0-***	***9,000,000***	***-0-***
003.	***Construct Materials Characterization/ICSET Phase II***			
	Bond Funds	***-0-***	***4,500,000***	***-0-***
004.	Construct Agriculture Research Services Lab			
	Federal Funds	-0-	22,825,000	-0-
005.	Capital Projects Pool			
	Restricted Funds	-0-	10,195,000	-0-
006.	***Replace Building Ford College Business - Grise Hall, Phase I***			
	Bond Funds	***-0-***	***5,800,000***	***-0-***
007.	Renovate Electrical Distribution - Phase V			
	Restricted Funds	-0-	4,500,000	-0-
008.	Renovate Downing University Center			
	Restricted Funds	4,320,000	-0-	-0-
009.	Renovation & Expansion of Carroll Knicely Center			
	Restricted Funds	-0-	3,500,000	-0-
010.	Replace Steam Line			
	Restricted Funds	-0-	3,000,000	-0-
011.	Purchase Property for Campus Expansion			
	Restricted Funds	-0-	3,000,000	-0-
012.	Upgrade IT Infrastructure			
	Restricted Funds	-0-	2,000,000	-0-
013.	Construct Central Reg. Postsecondary Education Center Phase II			
	Restricted Funds	-0-	2,000,000	-0-
014.	Renovate Environmental Science & Technology HVAC & Electrical System			
	Restricted Funds	-0-	2,000,000	-0-
015.	Renovate Academic Complex Phase I			
	Restricted Funds	-0-	1,323,000	-0-
016.	Renovate Agriculture Expo Center HVAC System			
	Restricted Funds	-0-	930,000	-0-
017.	Convert WKYU-NPR-and WKYU-PS to Digital			

	Restricted Funds	-0-	500,000	-0-
018.	Renovation of Faculty House			
	Restricted Funds	-0-	500,000	-0-
019.	Replace College of Education Building - Tate Page Hall			
	Bond Funds	-0-	35,000,000	-0-
020.	*Acquire Property and Construct Parking Lots*			
	Agency Bonds	*-0-*	*4,000,000*	*-0-*
021.	*Expand Preston Center*			
	Agency Bonds	*-0-*	*10,000,000*	*-0-*
022.	Construct Mesonet Weather Monitoring System			
	Federal Funds	-0-	3,000,000	-0-
023.	*Van Meter Hall Renovation*			
	Agency Bonds	*-0-*	*16,000,000*	*-0-*
024.	*Ivan Wilson Fine Arts Center Expansion*			
	Agency Bonds	*-0-*	*8,000,000*	*-0-*
025.	Guaranteed Energy Savings Performance Contracts			

Section 41. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 11. Kentucky Community and Technical College System, at pages 1256 to 1258, is amended to read as follows:

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

001.	Advanced Manufacturing Technology Center - Gateway Community and Technical College - Design			
	Bond Funds	-0-	28,000,000	-0-
002.	Construct Emerging Technology Center - West KY CTC			
	Bond Funds	-0-	16,518,000	-0-
003.	Construct Allied Health/Technical Education Building - Laurel Campus			
	Bond Funds	-0-	14,015,000	-0-
004.	Major Item of Equipment Pool			
	Restricted Funds	-0-	22,717,000	-0-
005.	Capital Renewal Pool			
	Restricted Funds	-0-	15,000,000	-0-
006.	Complete Acquisition of System Office & Expansion			
	Restricted Funds	-0-	10,000,000	-0-
007.	Land Acquisition Pool			
	Restricted Funds	-0-	5,500,000	-0-
008.	Construct Administration Building, Phase I - Maysville CC			
	Bond Funds	-0-	5,008,000	-0-
009.	Construct Licking Valley Center Phase II - Maysville CTC - Additional			
	Restricted Funds	-0-	3,459,000	-0-
	Bond Funds	*-0-*	*1,000,000*	*-0-*
	Other Funds	-0-	1,500,000	-0-
	TOTAL	-0-	5,959,000	-0-
010.	Renovate Gray Building - Madisonville CC			
	Restricted Funds	-0-	3,600,000	-0-
011.	Renovate KY School of Craft - Hazard CTC			
	Restricted Funds	-0-	2,649,000	-0-
	Federal Funds	-0-	250,000	-0-
	TOTAL	-0-	2,899,000	-0-
012.	Construct Child Development Center - Henderson CC			
	Federal Funds	-0-	250,000	-0-

	Other Funds	-0-	2,385,000	-0-
	TOTAL	-0-	2,635,000	-0-
013.	Renovate Anderson Building - West KY CTC			
	Restricted Funds	-0-	1,395,000	-0-
014.	Renovate Simulated Mine - Harlan Campus			
	Restricted Funds	-0-	1,380,000	-0-
015.	Greenspace Development - Big Sandy CTC Mayo Campus			
	Restricted Funds	-0-	1,083,000	-0-
016.	Renovate Administrative Building - Whitesburg Campus SEKYCTC			
	Restricted Funds	-0-	898,000	-0-
017.	Renovate Administrative Building - Elizabethtown CTC			
	Restricted Funds	-0-	850,000	-0-
018.	Master Plan Development & Upgrade Pool			
	Restricted Funds	-0-	850,000	-0-
019.	Pedestrian/Vehicular Connector - Somerset Community College - Additional			
	Restricted Funds	-0-	649,000	-0-
020.	Bluegrass CTC - Winchester Facility			
	Other Funds	-0-	500,000	-0-
021.	KCTCS Information Technology Infrastructure Upgrade Reauthorization ($12,000,000 Restricted Funds)			
022.	Scott County - Lease			
023.	Woodford County -City of Versailles - Lease-Purchase			
024.	Jefferson County - Lease			
025.	Henderson County - Lease			
026.	Guaranteed Energy Savings Performance Contracts			
027.	Construct Science/Allied Health Building - Jefferson CTC			
	Bond Funds	-0-	25,557,000	-0-
028.	Construct Central Regional Postsecondary Education Center Phase II - Elizabethtown CTC			
	Bond Funds	-0-	20,000,000	-0-
029.	Madisonville Postsecondary Education Center - Design			
	General Fund	-0-	300,000	-0-
030.	Advance Manufacturing Center - Design - Bluegrass CTC			
	Bond Funds	-0-	1,500,000	-0-
031.	Franklin Technology Center - Expansion			
	Bond Funds	-0-	2,700,000	-0-
032.	***Construct Carrollton Campus - Jefferson CTC***			
	Bond Funds	***-0-***	***12,000,000***	***-0-***
033.	Construct Tech Drive Campus, Phase III - Ashland CTC			
	Bond Funds	-0-	17,600,000	-0-
034.	***Energy and Advanced Technology Center - Madisonville CTC***			
	Bond Funds	***-0-***	***4,000,000***	***-0-***
035.	Springfield Community and Technical College			
	Bond Funds	-0-	14,500,000	-0-
036.	McCreary Center - Somerset CC			
	Bond Funds	-0-	6,500,000	-0-
037.	Mercer County Technical Center			
	Bond Funds	-0-	4,000,000	-0-
038.	***Advanced Technology Center - Owensboro CTC***			

	Bond Funds	*-0-*	*14,055,000*	*-0-*
039.	*Rowan County Campus - Maysville CTC - Design*			
	Bond Funds	*-0-*	*1,500,000*	*-0-*

Section 42. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget, on page 1259, after L. Transportation Cabinet, after item 019., the following is added:

M. COAL SEVERANCE TAX PROJECTS

(1) Projects Authorization and Appropriation: Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are composed of estimated receipts for fiscal year 2006-2007 and fiscal year 2007-2008 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Governor's Office for Local Development.

(2) Water and Sewer Projects: The following projects that are related to water and sewer shall be administered by the Kentucky Infrastructure Authority.

1. GENERAL GOVERNMENT

a.	*Budget Unit Governor's Office for Local Development*	*2006-07*	*2007-08*
Bell County			
001.	*Bell County Board of Education - Bell County High School - Agriculture Advancement Council for a No-Till Seeder*		
	Restricted Funds	*5,000*	*-0-*
002.	*Bell County Board of Education - Projects*		
	Restricted Funds	*5,000*	*10,000*
003.	*Bell County Fiscal Court - Bell County Homeless and Housing Council - Land and/or Supplies*		
	Restricted Funds	*10,000*	*10,000*
004.	*Bell County Fiscal Court - Bell County Industrial Foundation - Completion of Infrastructure*		
	Restricted Funds	*125,000*	*125,000*
005.	*Bell County Fiscal Court - Bell County Little League - Equipment and/or Field Improvements*		
	Restricted Funds	*5,000*	*5,000*
006.	*Bell County Fiscal Court - Bell County Public Library - Furnishing and Equipment*		
	Restricted Funds	*20,000*	*20,000*
007.	*Bell County Fiscal Court - Bell County Rescue Squad - Operations*		
	Restricted Funds	*10,000*	*10,000*
008.	*Bell County Fiscal Court - Bell County Senior Citizens - Operations*		
	Restricted Funds	*5,000*	*5,000*
009.	*Bell County Fiscal Court - Bell County Sheriff Department - Vehicles and/or Equipment*		
	Restricted Funds	*25,000*	*35,000*
010.	*Bell County Fiscal Court - Bell County Volunteer Fire Department - Construction of New Fire*		

	Station at Arjay		
	Restricted Funds	*25,000*	*25,000*
011.	*Bell County Fiscal Court - County Clerk - Equipment*		
	Restricted Funds	*5,000*	*5,000*
012.	*Bell County Fiscal Court - Frakes Senior Citizens - Operations*		
	Restricted Funds	*2,500*	*2,500*
013.	*Bell County Fiscal Court - Middlesboro Little League and Tee Ball - Equipment and/or Field Improvement*		
	Restricted Funds	*5,000*	*5,000*
014.	*Bell County Fiscal Court - Projects and/or Equipment*		
	Restricted Funds	*325,000*	*390,000*
015.	*Bell County Fiscal Court - Red Bird Senior Citizens - Operations*		
	Restricted Funds	*2,500*	*2,500*
016.	*Bell County Fiscal Court - The Lighthouse Mission - Operations and/or Equipment*		
	Restricted Funds	*20,000*	*20,000*
017.	*Bell County Fiscal Court - Two New Ambulances*		
	Restricted Funds	*80,000*	*80,000*
018.	*City of Middlesboro - Fire Department - Turn Out Gear*		
	Restricted Funds	*25,000*	*-0-*
019.	*City of Middlesboro - Police Department and/or Equipment*		
	Restricted Funds	*25,000*	*-0-*
020.	*City of Middlesboro - Project and/or Equipment*		
	Restricted Funds	*25,000*	*25,000*
021.	*City of Pineville - Fire Department - Equipment*		
	Restricted Funds	*-0-*	*10,000*
022.	*City of Pineville - Projects and/or Equipment*		
	Restricted Funds	*30,000*	*-0-*
023.	*Middlesboro Board of Education - Projects*		
	Restricted Funds	*20,000*	*-0-*
024.	*Pineville Board of Education - Projects*		
	Restricted Funds	*20,000*	*-0-*
025.	*Bell County Board of Education - K-6 Little League Football Equipment*		
	Restricted Funds	*5,000*	*-0-*
026.	*Pineville Independent School Board - Pineville City Schools - K-6 Little League Football Equipment*		
	Restricted Funds	*5,000*	*-0-*
027.	*Middlesboro Independent School Board - Middlesboro City Schools - K-6 Little League Football Equipment*		
	Restricted Funds	*5,000*	*-0-*
028.	*Bell County Fiscal Court - Cemetery Fund - Operations and/or Equipment*		

	Restricted Funds	*-0-*	*10,000*
029.	*Bell County Fiscal Court - PVA - Equipment*		
	Restricted Funds	*5,000*	*5,000*
030.	*Bell County Fiscal Court - Dewey Guy Post - Expense for Conducting Military Funerals*		
	Restricted Funds	*5,000*	*-0-*
031.	*Bell County Health Department - Equipment and/or Supplies*		
	Restricted Funds	*5,000*	*5,000*
032.	*Bell County Fiscal Court - The KY Homeplace - Equipment and/or Supplies*		
	Restricted Funds	*5,000*	*5,000*
033.	*Bell County Fiscal Court - Frakes Volunteer Fire Department - Operations and/or Equipment*		
	Restricted Funds	*5,000*	*5,000*
034.	*Bell County Fiscal Court - Airport Improvements*		
	Restricted Funds	*-0-*	*10,000*
035.	*Bell County Fiscal Court - Bell County Veterans Park - Construction of Restrooms*		
	Restricted Funds	*5,000*	*-0-*
036.	*City of Pineville - Police Department - Equipment/Vehicles*		
	Restricted Funds	*-0-*	*20,000*
Boyd County			
001.	*Ashland Independent Board of Education - Facility Upgrades and Improvements*		
	Restricted Funds	*40,000*	*40,000*
002.	*Boyd County Board of Education - Facility Improvements and Upgrades - Boyd County Soccer Complex - Lights, Fencing, and Other Related Enhancements and Improvements*		
	Restricted Funds	*80,000*	*-0-*
003.	*Boyd County Fiscal Court - Fair - Building and Ground Improvements*		
	Restricted Funds	*-0-*	*10,000*
004.	*Boyd County Fiscal Court - Fannin Park - Improvements*		
	Restricted Funds	*-0-*	*10,000*
005.	*Boyd County Fiscal Court - Fraley Fields - Improvements*		
	Restricted Funds	*-0-*	*10,000*
006.	*City of Catlettsburg - Infrastructure and Other Improvements*		
	Restricted Funds	*-0-*	*26,004*
007.	*Fairview Board of Education - Facility Upgrades and Improvements*		
	Restricted Funds	*40,000*	*40,000*
Breathitt County			
001.	*Breathitt County Board of Education - Drain Tile for Landfill Between Breathitt County High School and Highway 15*		
	Restricted Funds	*-0-*	*200,000*

002. Breathitt County Board of Education - Purchasing, Remodeling, and Improving Property of Montessori School Currently Owned by Buckhorn Childrens Home		
Restricted Funds	*300,000*	*-0-*
003. Breathitt County Fiscal Court - Hazard Community College/Lees College Campus - Breathitt County Intergenerational Center		
Restricted Funds	*-0-*	*500,000*
004. Breathitt County Water District - Canoe Water Line		
Restricted Funds	*241,050*	*-0-*
005. Buckhorn Water District - Water Line Extensions on Bowlings Creek Road and Bushes Branch Road		
Restricted Funds	*241,050*	*-0-*
006. City of Jackson - Doughitt Park		
Restricted Funds	*50,000*	*-0-*
007. Breathitt County Fiscal Court - Breathitt County Court Clerk's Office - Equipment		
Restricted Funds	*25,000*	*-0-*
008. Jackson Independent Board of Education - Jackson City School System - Science Lab, PE Lockers, and Other School Equipment		
Restricted Funds	*100,000*	*-0-*
009. UK Center for Rural Health - KY Homeplace/SKYCAP		
Restricted Funds	*15,000*	*-0-*
010. Breathitt County Fiscal Court - Hazard Community College/Lees College Campus - Family Life Skills Center		
Restricted Funds	*-0-*	*26,500*
Butler County		
001. Butler County Fiscal Court - Audio Speaker System for Butler County Courthouse		
Restricted Funds	*4,000*	*-0-*
002. Butler County Fiscal Court - Boys and Girls Youth Program		
Restricted Funds	*3,500*	*-0-*
Carter County		
001. Carter County Board of Education - East Carter High School - Tennis Courts		
Restricted Funds	*-0-*	*40,000*
002. Carter County Board of Education - West Carter Middle School - Soccer Field Lights		
Restricted Funds	*15,000*	*-0-*
003. Carter County Fiscal Court - Carter City Fire Department - Equipment and Operations		
Restricted Funds	*10,000*	*10,000*
004. Carter County Fiscal Court - Carter County Recreation - Park Development		
Restricted Funds	*20,000*	*10,000*
005. Carter County Fiscal Court - First Response Unit - EMS		
Restricted Funds	*50,000*	*-0-*

006.	***Carter County Fiscal Court - Grahn Community Center - Operating Costs***		
	Restricted Funds	***3,000***	***3,000***
007.	***Carter County Fiscal Court - Grahn Fire Department - Equipment and Operations***		
	Restricted Funds	***10,000***	***10,000***
008.	***Carter County Fiscal Court - Grayson Fire Department - Equipment and Operations***		
	Restricted Funds	***10,000***	***10,000***
009.	***Carter County Fiscal Court - Hitchins Fire Department - Equipment and Operations***		
	Restricted Funds	***10,000***	***10,000***
010.	***Carter County Fiscal Court - Olive Hill Fire Department - Equipment and Operations***		
	Restricted Funds	***25,000***	***25,000***
011.	***Carter County Fiscal Court - Repair Affair Grayson - Equipment and Supplies***		
	Restricted Funds	***3,000***	***3,000***
012.	***Carter County Fiscal Court - Search and Rescue - Operations and Equipment***		
	Restricted Funds	***2,500***	***2,500***
013.	***Carter County Fiscal Court - Veterans Association - Main Street Park Project***		
	Restricted Funds	***30,000***	***30,000***
014.	***Carter County Fiscal Court - Webbville Fire Department - Operations and Equipment***		
	Restricted Funds	***3,000***	***3,000***
015.	***City of Grayson - Downtown Beautification - Sidewalk and Lighting - Improvements***		
	Restricted Funds	***15,000***	***15,000***
016.	***City of Olive Hill - Downtown Beautification - Brown Park - Sidewalk and Lighting - Improvements***		
	Restricted Funds	***25,000***	***25,000***
017.	***City of Olive Hill - Olive Hill Historical Society - High School Restoration Project***		
	Restricted Funds	***25,000***	***25,000***
Christian County			
001.	***Christian County Fiscal Court - New Salvation Army Building***		
	Restricted Funds	***151,841***	***-0-***
Clay County			
001.	***City of Manchester - Street Scape***		
	Restricted Funds	***280,000***	***280,000***
002.	***Clay County Fiscal Court - B-School - Renovations and Park***		
	Restricted Funds	***40,000***	***-0-***
003.	***Clay County Fiscal Court - Community Wellness Program - Laurel Creek***		
	Restricted Funds	***12,000***	***-0-***

004. Clay County Board of Education - Renovation of Pinhook School		
Restricted Funds	*15,000*	*-0-*
Crittenden County		
001. Crittenden County Fiscal Court - Clement Mineral Museum - Renovation and Repair		
Restricted Funds	*20,000*	*-0-*
002. Crittenden County Fiscal Court - Crittenden County Animal Shelter - Construction		
Restricted Funds	*40,000*	*-0-*
003. Crittenden County Fiscal Court - Crittenden County Emergency Services Building - Property Purchase and Construction		
Restricted Funds	*375,000*	*-0-*
004. Crittenden County Fiscal Court - Senior Citizens Center - Expansion		
Restricted Funds	*65,000*	*-0-*
Daviess County		
001. Daviess County Fiscal Court - Broadband Initiatives		
Restricted Funds	*100,000*	*-0-*
002. Daviess County Fiscal Court - Economic Development Incentives		
Restricted Funds	*50,000*	*-0-*
003. Daviess County Fiscal Court - Highway 144 Road Project		
Restricted Funds	*300,000*	*-0-*
Elliott County		
001. City of Sandy Hook - Downtown Beautification, Building Purchase, Sidewalk, Street Repairs, and other Upgrades and Improvements		
Restricted Funds	*25,000*	*25,000*
002. Elliott County Board of Education - Athletic Facility Improvements and Upgrades, Ground Improvements, Wellness Equipment, and other Related Athletic Department Enhancements		
Restricted Funds	*20,000*	*20,000*
003. Elliott County Board of Education - Building and Ground Improvements, Program, Curriculum, Enhancements, and other Upgrades		
Restricted Funds	*20,000*	*25,000*
004. Elliott County Board of Education - Elliott County Public Library - Equipment, Materials, Program Enhancements, Operations, and other Library Improvements		
Restricted Funds	*20,000*	*20,000*
005. Elliott County Board of Education - Isonville Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		

	Restricted Funds	10,000	10,000
006.	Elliott County Board of Education - Lakeside Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	10,000	10,000
007.	Elliott County Board of Education - Sandy Hook Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	10,000	10,000
008.	Elliott County Fiscal Court - 504 Volunteer Fire Department - Equipment, Building and Ground Improvements and Other Enhancements		
	Restricted Funds	10,000	15,000
009.	Elliott County Fiscal Court - Elliott County Fire and Rescue - Equipment, Building and Ground Improvements and Other Enhancements		
	Restricted Funds	10,000	15,000
010.	Elliott County Fiscal Court - Isonville Volunteer Fire Department - Equipment, Building and Ground Improvements and other Enhancements		
	Restricted Funds	10,000	15,000
011.	Elliott County Fiscal Court - Laurel Gorge Cultural and Heritage Center - Facility and Ground Improvements, Equipment, Materials, Operations, and other Upgrades		
	Restricted Funds	20,000	20,000
012.	Elliott County Fiscal Court - New Ambulance - Elliott County Ambulance Service		
	Restricted Funds	30,000	-0-
Floyd County			
001.	City of Allen - Ball Park - Improvements		
	Restricted Funds	20,000	-0-
002.	Floyd County Board of Education - Allen Central High School - Academic and Athletic Program/Athletic Teams - Equipment and Educational Support		
	Restricted Funds	-0-	50,000
003.	Floyd County Board of Education - Betsy Layne High School - Academic and Athletic Program/Athletic Teams - Equipment and Educational Support		
	Restricted Funds	-0-	50,000
004.	Floyd County Board of Education - Prestonsburg High School - Academic and Athletic Program/ Athletic Teams - Equipment and Educational Support		
	Restricted Funds	-0-	50,000
005.	Floyd County Board of Education - South Floyd High		

	School - Academic and Athletic Program/Athletic Teams - Equipment and Educational Support *Restricted Funds*	*-0-*	*50,000*
006.	*Floyd County Fiscal Court - Allen Fire Department - Equipment/Operations* *Restricted Funds*	*2,600*	*2,600*
007.	*Floyd County Fiscal Court - Appalachian Regional Health Care - Facility Upgrades and Construction - Regional, Technology and Business Center* *Restricted Funds*	*100,000*	*-0-*
008.	*Floyd County Fiscal Court - Auxier Fire Department - Equipment/Operations* *Restricted Funds*	*2,600*	*2,600*
009.	*Floyd County Fiscal Court - Betsy Layne Fire Department - Equipment/Operations* *Restricted Funds*	*2,600*	*2,600*
010.	*Floyd County Fiscal Court - Bookmobile - Vehicle* *Restricted Funds*	*-0-*	*75,000*
011.	*Floyd County Fiscal Court - Comb's Airport - Runway and Safety Improvements* *Restricted Funds*	*50,000*	*-0-*
012.	*Floyd County Fiscal Court - Coroner - Vehicle* *Restricted Funds*	*-0-*	*30,000*
013.	*Floyd County Fiscal Court - Cow Creek Fire Department - Equipment/Operations* *Restricted Funds*	*2,600*	*2,600*
014.	*Floyd County Fiscal Court - David Area Fire Department - Equipment/Operations* *Restricted Funds*	*2,600*	*2,600*
015.	*Floyd County Fiscal Court - Disabled American Veterans Post 169 - Equipment and Improvements* *Restricted Funds*	*6,666*	*6,666*
016.	*Floyd County Fiscal Court - Disabled American Veterans Post 18 - Equipment and Improvements* *Restricted Funds*	*6,666*	*6,666*
017.	*Floyd County Fiscal Court - Disabled American Veterans Post 5839 - Equipment and Improvements* *Restricted Funds*	*6,666*	*6,666*
018.	*Floyd County Fiscal Court - Drift Park - Improvements* *Restricted Funds*	*30,000*	*70,000*
019.	*Floyd County Fiscal Court - Elkhorn Park - Educational Program* *Restricted Funds*	*10,000*	*20,000*
020.	*Floyd County Fiscal Court - Floyd County Head Start Program - Computers and Technical Support* *Restricted Funds*	*50,000*	*-0-*
021.	*Floyd County Fiscal Court - Garrett Fire Department - Equipment/Operations* *Restricted Funds*	*2,600*	*2,600*

022.	*Floyd County Fiscal Court - Jailer - Vehicle*		
	Restricted Funds	*-0-*	*30,000*
023.	*Floyd County Fiscal Court - Jenny Wiley Outdoor Theatre - Upgrades and Improvements*		
	Restricted Funds	*20,000*	*-0-*
024.	*Floyd County Fiscal Court - Left Beaver Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
025.	*Floyd County Fiscal Court - LINKS - Housing and Facility Construction*		
	Restricted Funds	*25,000*	*-0-*
026.	*Floyd County Fiscal Court - Martin Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
027.	*Floyd County Fiscal Court - Middle Creek Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
028.	*Floyd County Fiscal Court - Mountain Arts Center - Equipment Upgrades/Projects*		
	Restricted Funds	*-0-*	*50,000*
029.	*Floyd County Fiscal Court - Mountain Comprehensive Care - Lane House - Alcohol and Drug Abuse Education*		
	Restricted Funds	*25,000*	*-0-*
030.	*Floyd County Fiscal Court - Mountain Top Recreational - Construction*		
	Restricted Funds	*-0-*	*100,000*
031.	*Floyd County Fiscal Court - Mud Creek Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
032.	*Floyd County Fiscal Court - Prestonsburg Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
033.	*Floyd County Fiscal Court - Senior Citizens Center - Operating*		
	Restricted Funds	*70,000*	*70,000*
034.	*Floyd County Fiscal Court - Sheriff's Department - Vehicle*		
	Restricted Funds	*-0-*	*30,000*
035.	*Floyd County Fiscal Court - Southeast Floyd Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
036.	*Floyd County Fiscal Court - Toler Creek Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
037.	*Floyd County Fiscal Court - Vehicle for Drug Enforcement*		
	Restricted Funds	*-0-*	*30,000*
038.	*Floyd County Fiscal Court - Wayland Area*		

	Fire Department - Equipment/Operations		
	Restricted Funds	*2,600*	*2,600*
039.	*Floyd County Fiscal Court - Wayland Historical Society - Land Purchase - East Kentucky Hall of Fame*		
	Restricted Funds	*100,000*	*-0-*
040.	*Floyd County Fiscal Court - Wheelwright Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
041.	*Floyd County Fiscal Court - Hope in the Mountains - Drug Rehabilitation*		
	Restricted Funds	*25,000*	*10,000*
042.	*Floyd County Fiscal Court - Maytown Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
043.	*KCTCS - Big Sandy Community and Technical College - Scholarship Fund for Students and Textbooks*		
	Restricted Funds	*-0-*	*40,000*
044.	*KCTCS - Prestonsburg Community College - Kentucky Coal Academy Program*		
	Restricted Funds	*125,000*	*125,000*
045.	*Floyd County Fiscal Court - East Kentucky Science Center*		
	Restricted Funds	*-0-*	*50,000*
046.	*Floyd County Fiscal Court - American Legion Post 283 - Martin*		
	Restricted Funds	*-0-*	*3,000*
Greenup County			
001.	*City of Bellefonte - Storm/Sanitary Sewer/ Runoff Remediation*		
	Restricted Funds	*20,000*	*-0-*
002.	*City of Flatwoods - Babe Ruth League - Equipment*		
	Restricted Funds	*1,000*	*-0-*
003.	*City of Flatwoods - Espy Lane Project - Upgrade Espy Lane Pump Station and Lines*		
	Restricted Funds	*20,000*	*-0-*
004.	*City of Flatwoods - Senior/Community Center - Equipment*		
	Restricted Funds	*1,000*	*-0-*
005.	*City of Greenup - Bathrooms in Greenup Park - Improvements*		
	Restricted Funds	*-0-*	*15,000*
006.	*City of Raceland - Park Improvements, Community/ Senior Center, Technology Center, Water and Sewer Improvements*		
	Restricted Funds	*20,000*	*-0-*
007.	*City of Russell - (SX21089014) Manhole Rehab Project*		
	Restricted Funds	*7,000*	*-0-*
008.	*City of Russell - Sidewalks on Seaton Drive*		

	(to be used for local match)		
	Restricted Funds	*13,000*	*-0-*
009.	*City of South Shore - Quilt Festival Promotion and Marketing Materials and Equipment*		
	Restricted Funds	*1,000*	*-0-*
010.	*City of South Shore - Resurface Tennis Courts and Basketball Courts - Renovate Park and Bathrooms*		
	Restricted Funds	*20,000*	*-0-*
011.	*City of Worthington - (SX21089004) Sulfur Dioxide Drive - Drain for Sewer Treatment Plant*		
	Restricted Funds	*2,000*	*-0-*
012.	*City of Worthington - Parks, Sidewalk, and Water/ Sewer Improvements*		
	Restricted Funds	*18,000*	*-0-*
013.	*City of Wurtland - Walking/Running Track at Wurtland Elementary and Wurtland Middle School and Chinn Street Lift Station Rehab*		
	Restricted Funds	*20,000*	*-0-*
014.	*Greenup County Fiscal Court - U.S. 23 - Fullerton/ South Portsmouth Country Music Highway*		
	Restricted Funds	*19,000*	*-0-*
015.	*Greenup County Board of Education - Argillite Elementary School - Interactive White Boards, LCD Projector, and Stand*		
	Restricted Funds	*3,000*	*-0-*
016.	*Greenup County Board of Education - Greenup County Area Technology Center - Interactive White Boards and Projectors*		
	Restricted Funds	*3,000*	*-0-*
017.	*Greenup County Board of Education - Greenup County High School - Software, Printed Material, and Equipment for Remediation in Reading and Math*		
	Restricted Funds	*3,000*	*-0-*
018.	*Greenup County Board of Education - Greysbranch Elementary School - Interactive White Boards for Every Grade Level*		
	Restricted Funds	*3,000*	*-0-*
019.	*Greenup County Board of Education - McKell Elementary School - Audio Equipment for Stage/ Gym for Arts and Humanities*		
	Restricted Funds	*3,000*	*-0-*
020.	*Greenup County Board of Education - McKell Middle School - Calculators, Math Manipulators, and Hardware*		
	Restricted Funds	*3,000*	*-0-*
021.	*Greenup County Board of Education - Wurtland Elementary School - Walking/Running Track*		
	Restricted Funds	*3,000*	*-0-*
022.	*Greenup County Fiscal Court - Engineering Study of Poplar Highlands Sewer Upgrades*		

	Restricted Funds	*-0-*	*25,000*
023.	*Greenup County Fiscal Court - North Fork Radio Tower Extension*		
	Restricted Funds	*8,000*	*-0-*
024.	*Greenup County Fiscal Court - Greenup County Humane Society*		
	Restricted Funds	*1,000*	*-0-*
025.	*Greenup County Fiscal Court - Greenup Senior Citizens Center - Improvements and Operating Expenses*		
	Restricted Funds	*10,000*	*-0-*
026.	*Greenup County Fiscal Court - Guardrail for Route 7*		
	Restricted Funds	*20,000*	*-0-*
027.	*Greenup County Fiscal Court - Old Fashioned Days Promotion and Marketing Materials and Equipment*		
	Restricted Funds	*1,000*	*-0-*
028.	*Greenup County Fiscal Court - South Shore - Meals on Wheels*		
	Restricted Funds	*1,000*	*-0-*
029.	*Greenup County Fiscal Court - Welcome Area US 23 Near Grant Bridge at Fullerton/South Portsmouth - Construction*		
	Restricted Funds	*-0-*	*35,000*
030.	*Russell Independent Board of Education - Russell - McDowell Intermediate School - Physical Fitness Equipment/Mats and Hand Holds*		
	Restricted Funds	*3,000*	*-0-*
031.	*Russell Independent Board of Education - Russell Area Technology Center - Instructor Monitoring Software*		
	Restricted Funds	*3,000*	*-0-*
032.	*Russell Independent Board of Education - Russell High School - Graphic Calculators, Digital Cameras, Data Projector, and Digital Micro Pipets*		
	Restricted Funds	*3,000*	*-0-*
033.	*Russell Independent Board of Education - Russell Middle School - Audiovisual Equipment*		
	Restricted Funds	*3,000*	*-0-*
034.	*Russell Independent Board of Education - Russell Primary School - Poster Machine, Cold Laminator, and Risograph*		
	Restricted Funds	*3,000*	*-0-*
035.	*City of Greenup - Pump Station (Route 1) and Water System Improvements*		
	Restricted Funds	*71,000*	*-0-*
036.	*Greenup County Fiscal Court - Greenup County Park and Fairgrounds Improvements*		
	Restricted Funds	*10,000*	*-0-*
037.	*Greenup County Fiscal Court - Worthington Meals on Wheels*		
	Restricted Funds	*1,000*	*-0-*

038. Greenup County Fiscal Court - Russell/Raceland/ Flatwoods - Meals on Wheels		
Restricted Funds	*1,000*	*-0-*
039. Greenup County Fiscal Court - Greenup Riverfront Improvements		
Restricted Funds	*15,000*	*-0-*
040. City of Raceland - Lost Canyon and Caroline Road - Sewer Extension - SX 21089018		
Restricted Funds	*48,000*	*-0-*
Hancock County		
001. Hancock County Fiscal Court Community Development		
Restricted Funds	*235,000*	*-0-*
002. Hancock County Fiscal Court - Highway 657 (4th Street) - Sewer Line Extension		
Restricted Funds	*-0-*	*75,000*
003. Hancock County Fiscal Court - Repair Affair		
Restricted Funds	*15,000*	*-0-*
Harlan County		
001. City of Benham - Operations, Projects, and Equipment		
Restricted Funds	*20,000*	*20,000*
002. City of Benham - Water Tank		
Restricted Funds	*250,000*	*-0-*
003. City of Cumberland - Projects and Equipment		
Restricted Funds	*20,000*	*20,000*
004. City of Cumberland - Tri-City Heritage Development Corporation Operations		
Restricted Funds	*-0-*	*15,000*
005. City of Cumberland - Water Line Extension - Cumberland to Letcher County Line		
Restricted Funds	*500,000*	*-0-*
006. City of Evarts - Land Acquisition and Building for Fire Department - Construction		
Restricted Funds	*25,000*	*-0-*
007. City of Evarts - Land Acquisition and Building for RV Park - Construction		
Restricted Funds	*-0-*	*50,000*
008. City of Evarts - Projects and/or Equipment		
Restricted Funds	*20,000*	*20,000*
009. City of Evarts - Safety Equipment for ATV Park		
Restricted Funds	*90,000*	*-0-*
010. City of Harlan - Harlan City Fire Department - Operations and Equipment		
Restricted Funds	*7,500*	*7,500*
011. City of Harlan - Harlan Revitalization		
Restricted Funds	*50,000*	*25,000*
012. City of Loyall - Projects and Equipment		
Restricted Funds	*20,000*	*20,000*
013. City of Lynch - Projects and Equipment		

	Restricted Funds	*20,000*	*20,000*
014.	*City of Lynch - Sewer Line Replacement Project*		
	Restricted Funds	*-0-*	*70,000*
015.	*City of Lynch - Water Plant Rehabilitation*		
	Restricted Funds	*100,000*	*-0-*
016.	*City of Wallins - Projects and Equipment*		
	Restricted Funds	*20,000*	*20,000*
017.	*Green Hills Water District - Water System Improvements and Extensions*		
	Restricted Funds	*200,000*	*125,000*
018.	*Green Hills Water District - Equipment and Water Line Extension*		
	Restricted Funds	*75,000*	*-0-*
019.	*Harlan County Fiscal Court - Benham Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
020.	*Harlan County Fiscal Court - Black Mountain Utilities - Water Line Extension*		
	Restricted Funds	*300,000*	*700,000*
021.	*Harlan County Fiscal Court - Bledsoe Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
022.	*Harlan County Fiscal Court - Camp Blanton - Renovation*		
	Restricted Funds	*84,000*	*-0-*
023.	*Harlan County Fiscal Court - Cawood Ledford Boys and Girls Club - Operations and Equipment*		
	Restricted Funds	*25,000*	*25,000*
024.	*Harlan County Fiscal Court - Cawood Water District Water Line - Expansion to Smith Area*		
	Restricted Funds	*400,000*	*600,000*
025.	*Harlan County Fiscal Court - Cloverfork Rescue Squad - Operations and Equipment*		
	Restricted Funds	*-0-*	*10,000*
026.	*Harlan County Fiscal Court - Cloverfork Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
027.	*Harlan County Fiscal Court - Coldiron Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
028.	*Harlan County Fiscal Court - Coxton Park - Renovation and Improvements*		
	Restricted Funds	*10,000*	*-0-*
029.	*Harlan County Fiscal Court - Cumberland Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
030.	*Harlan County Fiscal Court - Detention Center - Bond Department - Principal*		
	Restricted Funds	*250,000*	*250,000*

031.	*Harlan County Fiscal Court - Evarts Depot - Restoration*		
	Restricted Funds	*-0-*	*57,000*
032.	*Harlan County Fiscal Court - Evarts Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
033.	*Harlan County Fiscal Court - Four-Wheeler Park for Promotional Costs and Ancillary*		
	Restricted Funds	*-0-*	*100,000*
034.	*Harlan County Fiscal Court - Green Hills Community Center and Park - Improvements*		
	Restricted Funds	*20,000*	*-0-*
035.	*Harlan County Fiscal Court - Harlan Rescue Squad - Operations and Equipment*		
	Restricted Funds	*-0-*	*10,000*
036.	*Harlan County Fiscal Court - Harlan County Committee on Aging, Inc. - Renovation/Equipment*		
	Restricted Funds	*-0-*	*125,000*
037.	*Harlan County Fiscal Court - Harlan County Road Department - Equipment*		
	Restricted Funds	*-0-*	*50,000*
038.	*Harlan County Fiscal Court - Harlan Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
039.	*Harlan County Fiscal Court - Harlan Little League - Operations and Maintenance*		
	Restricted Funds	*5,000*	*10,000*
040.	*Harlan County Fiscal Court - Harlan Shriners' Park - Improvements*		
	Restricted Funds	*-0-*	*10,000*
041.	*Harlan County Fiscal Court - Hope Drug Center - Operations and Equipment*		
	Restricted Funds	*220,000*	*29,000*
042.	*Harlan County Fiscal Court - Lower Cloverfork Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
043.	*Harlan County Fiscal Court - Loyall Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
044.	*Harlan County Fiscal Court - Lynch Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
045.	*Harlan County Fiscal Court - Martins Fork Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
046.	*Harlan County Fiscal Court - Mountain Comprehensive Health Corporation - Improvements*		
	Restricted Funds	*250,000*	*-0-*
047.	*Harlan County Fiscal Court - Pathfork Park - Improvements*		
	Restricted Funds	*10,000*	*-0-*

048.	Harlan County Fiscal Court - Putney Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	7,500	7,500
049.	Harlan County Fiscal Court - Sheriff's Department - Cops in School		
	Restricted Funds	25,000	25,000
050.	Harlan County Fiscal Court - Smith Park - Improvements		
	Restricted Funds	-0-	10,000
051.	Harlan County Fiscal Court - Southeast Education Foundation - Benham Inn, Portal 31, Coal Mine Museum - Pay off Debt		
	Restricted Funds	325,000	-0-
052.	Harlan County Fiscal Court - Southeast Kentucky Rehabilitation Industry - Building and Roof - Repair		
	Restricted Funds	250,000	-0-
053.	Harlan County Fiscal Court - Sunshine Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	7,500	7,500
054.	Harlan County Fiscal Court - Tri-City Little League - Operations and Equipment		
	Restricted Funds	-0-	15,000
055.	Harlan County Fiscal Court - Upper Cloverfork Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	7,500	7,500
056.	Harlan County Fiscal Court - Veterans Honor Guard		
	Restricted Funds	-0-	15,000
057.	Harlan County Fiscal Court - Wallins Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	7,500	7,500
058.	Harlan County Fiscal Court - Yocum Creek Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	7,500	7,500
059.	KCTCS - Southeast Community College - Kentucky Coal Academy Program		
	Restricted Funds	125,000	125,000
060.	Kentucky Fish and Wildlife - Two ATV Safety Vehicles and Operations for Harlan County ATV Trails		
	Restricted Funds	75,000	75,000
061.	City of Lynch - Splash Pad Project		
	Restricted Funds	-0-	60,000
Henderson County			
001.	City of Corydon - Demolish and Removal of Buildings - Health and Safety Reasons		
	Restricted Funds	25,000	-0-
002.	City of Robards - Infrastructure Needs		
	Restricted Funds	20,000	-0-
003.	Henderson County Fiscal Court - Baskett Volunteer Fire Department - Firefighting Equipment		
	Restricted Funds	10,000	-0-

004.	*Henderson County Fiscal Court - Cairo Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
005.	*Henderson County Fiscal Court - Corydon Civil Defense Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
006.	*Henderson County Fiscal Court - Hebbardsville Area Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
007.	*Henderson County Fiscal Court - Henderson City - County Rescue Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
008.	*Henderson County Fiscal Court - Henderson County Fairgrounds - Concrete Areas Around Buildings/Bathrooms*		
	Restricted Funds	*20,000*	*-0-*
009.	*Henderson County Fiscal Court - Henderson County Fairgrounds - Infrastructure for Walking Track and Paving*		
	Restricted Funds	*55,000*	*-0-*
010.	*Henderson County Fiscal Court - Henderson County Fairgrounds - Park Equipment and Improvements*		
	Restricted Funds	*45,000*	*-0-*
011.	*Henderson County Fiscal Court - Niagara Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
012.	*Henderson County Fiscal Court - Paving of Newly Constructed Connector Road at Riverport*		
	Restricted Funds	*40,000*	*-0-*
013.	*Henderson County Fiscal Court - Poole Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
014.	*Henderson County Fiscal Court - Public Library - Repair and Renovation*		
	Restricted Funds	*250,000*	*-0-*
015.	*Henderson County Fiscal Court - Reed Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
016.	*Henderson County Fiscal Court - Robards Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
017.	*Henderson County Fiscal Court - Smith Mills Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
018.	*Henderson County Fiscal Court - Spottsville Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
019.	*Henderson County Fiscal Court - Star Industrial*		

	Park - Site Adjacent to Columbia Sportswear - Grading and Site Work for Entrance		
	Restricted Funds	*45,000*	*-0-*
020.	*Henderson County Fiscal Court - Star Industrial Park - Entrance and Site Work - Clearing of Trees and Reseeding*		
	Restricted Funds	*40,000*	*-0-*
021.	*Henderson County Fiscal Court - Zion Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
022.	*Henderson County Water District - Cheatham Road/William Keene Road Extension*		
	Restricted Funds	*26,000*	*-0-*
023.	*Henderson County Water District - Henderson and West Daviess Interconnection*		
	Restricted Funds	*75,000*	*-0-*
024.	*Henderson County Water District - Henderson County Water - Old US 60 Main Replacement*		
	Restricted Funds	*125,000*	*-0-*
025.	*Henderson County Water District - J. Gibson Hugh Sights - Rock Springs Roads Water Line Extension*		
	Restricted Funds	*136,000*	*-0-*
Hopkins County			
001.	*City of Dawson Springs - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
002.	*City of Earlington - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
003.	*City of Hanson - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
004.	*City of Madisonville - Hopkins County Public Library - Renovation Project*		
	Restricted Funds	*100,000*	*-0-*
005.	*City of Madisonville - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
006.	*Dawson Springs - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
007.	*City of Madisonville Community College - Technology Upgrades and Workforce Development Programs*		
	Restricted Funds	*200,000*	*-0-*
008.	*City of Mortons Gap - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
009.	*City of Nebo - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
010.	*City of Nortonville - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
011.	*City of St. Charles - Warning Sirens - Equipment*		
	Restricted Funds	*14,000*	*-0-*
012.	*City of White Plains - Warning Sirens - Equipment*		

	Restricted Funds	*14,000*	*-0-*
013.	*Hopkins County Board of Education - School Resource Officer*		
	Restricted Funds	*70,000*	*-0-*
014.	*Hopkins County Fiscal Court - Anton Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
015.	*Hopkins County Fiscal Court - Area Two Dive Search, Rescue, and Recovery Team - Equipment and Upgrades*		
	Restricted Funds	*90,000*	*-0-*
016.	*Hopkins County Fiscal Court - Center for Cultural and Professional Development - Construction and Maintenance*		
	Restricted Funds	*40,000*	*-0-*
017.	*Hopkins County Fiscal Court - Charleston Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
018.	*Hopkins County Fiscal Court - Dawson Springs Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
019.	*Hopkins County Fiscal Court - Earlington Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
020.	*Hopkins County Fiscal Court - Economic Development/Land Acquisition and Infrastructure*		
	Restricted Funds	*394,450*	*-0-*
021.	*Hopkins County Fiscal Court - Grapevine Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
022.	*Hopkins County Fiscal Court - Hanson Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
023.	*Hopkins County Fiscal Court - Hopkins County Emergency Management (EMA) - Equipment Upgrades*		
	Restricted Funds	*50,000*	*-0-*
024.	*Hopkins County Fiscal Court - Hopkins County Public Works Department - Equipment and Vehicle Upgrades*		
	Restricted Funds	*200,000*	*-0-*
025.	*Hopkins County Fiscal Court - Humane Society - Equipment and Upgrades*		
	Restricted Funds	*50,000*	*-0-*
026.	*Hopkins County Fiscal Court - Manitou Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
027.	*Hopkins County Fiscal Court - Mortons Gap Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*

028.	*Hopkins County Fiscal Court - Nebo Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
029.	*Hopkins County Fiscal Court - Nortonville Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
030.	*Hopkins County Fiscal Court - Richland Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
031.	*Hopkins County Fiscal Court - Rosenwalk - Smith Multicultural Center - Maintenance and Repairs*		
	Restricted Funds	*100,000*	*-0-*
032.	*Hopkins County Fiscal Court - South Hopkins Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
033.	*Hopkins County Fiscal Court - St. Charles Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
034.	*Hopkins County Fiscal Court - White Plains Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
035.	*KCTCS - Madisonville Community College - Kentucky Coal Academy Program*		
	Restricted Funds	*125,000*	*125,000*
Jackson County			
001.	*Jackson County Fiscal Court - Gray Hawk Fire Department - Equipment*		
	Restricted Funds	*10,000*	*5,000*
002.	*Jackson County Fiscal Court - Jackson County Library Board*		
	Restricted Funds	*20,000*	*10,000*
003.	*Jackson County Fiscal Court - Maintenance Vehicles - Improvements*		
	Restricted Funds	*20,000*	*10,000*
004.	*Jackson County Fiscal Court - McKee Fire Department - Equipment*		
	Restricted Funds	*10,000*	*5,000*
005.	*Jackson County Fiscal Court - Pond Creek Fire Department - Equipment*		
	Restricted Funds	*10,000*	*5,000*
006.	*Jackson County Fiscal Court - Sand Gap Fire Department - Equipment*		
	Restricted Funds	*10,000*	*5,000*
007.	*Jackson County Fiscal Court - Sheriff's Department - Vehicle and Equipment*		
	Restricted Funds	*20,000*	*25,000*
Johnson County			
001.	*Johnson County Board of Education - Public Schools -Youth Activities Facility - Construction*		

	Restricted Funds	50,000	50,000
002.	Johnson County Fiscal Court - Courthouse - Debt Reduction		
	Restricted Funds	250,000	250,000
003.	Johnson County Fiscal Court - Courthouse - Maintenance and Repair		
	Restricted Funds	25,000	-0-
004.	Johnson County Fiscal Court - Senior Citizens Center - Improvements		
	Restricted Funds	25,000	25,000
005.	Johnson County Fiscal Court - Volunteer Fire Departments - Equipment and Operations		
	Restricted Funds	35,000	35,000
006.	Paintsville Independent Board of Education - City Schools - Youth Activities Facility - Construction		
	Restricted Funds	50,000	50,000
Knott County			
001.	Knott County Fiscal Court - Adult Wellness Complex - Bond Payment		
	Restricted Funds	1,000,000	1,000,000
002.	Knott County Fiscal Court - Amphitheater - Construction		
	Restricted Funds	50,000	200,000
003.	Knott County Fiscal Court - ATV Training Center and Trails - Develop and Construct		
	Restricted Funds	25,000	50,000
004.	Knott County Fiscal Court - Ball Creek Fire Department - Equipment		
	Restricted Funds	25,000	25,000
005.	Knott County Fiscal Court - Ball Creek Park - Operation, Maintenance, and Improvements		
	Restricted Funds	5,000	5,000
006.	Knott County Fiscal Court - Ball Creek and Beaver Creek Water Project - Fire Hydrants		
	Restricted Funds	110,000	-0-
007.	Knott County Fiscal Court - Beaver Creek Park - Operation, Maintenance, and Improvements		
	Restricted Funds	5,000	5,000
008.	Knott County Fiscal Court - Carr Creek - Water Treatment Plant		
	Restricted Funds	500,000	500,000
009.	Knott County Fiscal Court - Carr Creek Fire Department - Equipment		
	Restricted Funds	25,000	25,000
010.	Knott County Fiscal Court - Kentucky School of Craft		
	Restricted Funds	250,000	250,000
011.	Knott County Fiscal Court - County Clerk's Office - Operation, Maintenance, and Equipment		

	Restricted Funds	*35,000*	*35,000*
012.	*Knott County Fiscal Court - Dry Creek Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
013.	*Knott County Fiscal Court - Fisty Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
014.	*Knott County Fiscal Court - Hindman Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
015.	*Knott County Fiscal Court - Hindman Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
016.	*Knott County Fiscal Court - Hindman Sidewalk Pedestrian - Bridge Project*		
	Restricted Funds	*100,000*	*-0-*
017.	*Knott County Fiscal Court - Jamestown Village and Highway 81 Water Line - WRIS Project No. WX21119225*		
	Restricted Funds	*300,000*	*-0-*
018.	*Knott County Fiscal Court - Jones Fork Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
019.	*Knott County Fiscal Court - Jones Fork Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
020.	*Knott County Fiscal Court - Kite Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
021.	*Knott County Fiscal Court - Kite/Topmost Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
022.	*Knott County Fiscal Court - Knott County Courthouse - Renovation*		
	Restricted Funds	*200,000*	*200,000*
023.	*Knott County Fiscal Court - Knott County Emergency Rescue Squad - Equipment*		
	Restricted Funds	*25,000*	*25,000*
024.	*Knott County Fiscal Court - Knott County Football Field - Fence Around the Field*		
	Restricted Funds	*8,300*	*-0-*
025.	*Knott County Fiscal Court - Knott County Football Field - Rubberizing Track Service*		
	Restricted Funds	*45,000*	*-0-*
026.	*Knott County Fiscal Court - Knott County Football Field - Turf Solution*		
	Restricted Funds	*10,438*	*-0-*
027.	*Knott County Fiscal Court - Knott County Sheriff's Office - Safety Equipment, Operating,*		

	Maintenance, and Vehicle		
	Restricted Funds	*100,000*	*-0-*
028.	*Knott County Fiscal Court - Knott County Youth Foundation - Operating and Equipment*		
	Restricted Funds	*20,000*	*75,000*
029.	*Knott County Fiscal Court - Lotts Creek Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
030.	*Knott County Fiscal Court - Lotts Creek School - Athletic Field Lighting*		
	Restricted Funds	*50,000*	*25,000*
031.	*Knott County Fiscal Court - Various Water Line Extensions*		
	Restricted Funds	*250,000*	*250,000*
032.	*Knott County Fiscal Court - Martin Branch - Water Project*		
	Restricted Funds	*250,000*	*-0-*
033.	*Knott County Fiscal Court - Rte. 80 Montgomery to Soft Shell Exit - Water Line Extensions*		
	Restricted Funds	*-0-*	*1,000,000*
034.	*Knott County Fiscal Court - Mousie Community - Fifteen Fire Hydrants*		
	Restricted Funds	*33,000*	*-0-*
035.	*Knott County Fiscal Court - Pippa Passes Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
036.	*Knott County Fiscal Court - Purchase of Beckham Combs Elementary - Community Center*		
	Restricted Funds	*250,000*	*-0-*
037.	*Knott County Fiscal Court - Purchase of Caney Elementary - Community Center*		
	Restricted Funds	*250,000*	*-0-*
038.	*Knott County Fiscal Court - Purchase of Old Knott County Food Store - Community Center*		
	Restricted Funds	*100,000*	*-0-*
039.	*Knott County Fiscal Court - Purchase Property for Economic Development - Robert and Maggie Gambill Property*		
	Restricted Funds	*525,000*	*-0-*
040.	*Knott County Fiscal Court - Red Fox Fire Department - Construction*		
	Restricted Funds	*100,000*	*-0-*
041.	*Knott County Fiscal Court - Red Fox Fire Department - Purchase Property*		
	Restricted Funds	*100,000*	*-0-*
042.	*Knott County Fiscal Court - Red Fox Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
043.	*Knott County Fiscal Court - School of*		

	Crafts - Ceramic Department - Construction *Restricted Funds*	*250,000*	*-0-*
044.	*Knott County Fiscal Court - Senior Citizens Center - Improvements* *Restricted Funds*	*75,000*	*75,000*
045.	*Knott County Fiscal Court - Tourism - ATV and Horse Trail* *Restricted Funds*	*175,000*	*40,000*
046.	*Knott County Fiscal Court - Vicco/Sassafrass Fire Department - Equipment* *Restricted Funds*	*25,000*	*25,000*
047.	*Knott County Fiscal Court - Fire Hydrants* *Restricted Funds*	*-0-*	*25,000*
Knox County			
001.	*Cumberland Valley Area Development District - Artemus Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
002.	*Cumberland Valley Area Development District - Bailey Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
003.	*Cumberland Valley Area Development District - East Knox Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
004.	*Cumberland Valley Area Development District - Poplar Creek Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
005.	*Cumberland Valley Area Development District - Richland Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
006.	*Cumberland Valley Area Development District - Stinking Creek Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
007.	*Cumberland Valley Area Development District - West Knox Volunteer Fire Department - Capital Construction - Substation* *Restricted Funds*	*-0-*	*80,000*
008.	*Cumberland Valley Area Development District - West Knox Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
009.	*Cumberland Valley Area Development District - Woodbine Subdivision Station Volunteer Fire Department - Equipment* *Restricted Funds*	*-0-*	*30,000*
010.	*Cumberland Valley Area Development District - Woodvine Volunteer Fire Department - Capital Construction - Walker Park Substation* *Restricted Funds*	*-0-*	*80,000*
011.	*Knox County Board of Education - Knox Central Currency Bank - Equipment*		

	Restricted Funds	*5,000*	*-0-*
012.	*Knox County Board of Education - TV 4 - Equipment*		
	Restricted Funds	*20,000*	*-0-*
013.	*Knox County Fiscal Court - Knox County Attorney's Office UNITE - Equipment*		
	Restricted Funds	*20,000*	*-0-*
014.	*Knox County Fiscal Court - Sheriff - Equipment and Cars*		
	Restricted Funds	*50,000*	*25,000*
015.	*City of Barbourville - Police Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
016.	*City of Barbourville - Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
017.	*Knox County Fiscal Court - Girdler Volunteer Fire Department - Payment of Capital Construction Debt*		
	Restricted Funds	*30,000*	*-0-*
018.	*Knox County Fiscal Court - Artemus Volunteer Fire Department - Payment of Capital Construction Debt*		
	Restricted Funds	*50,000*	*-0-*
Laurel County			
001.	*Laurel County Fiscal Court - Bald Rock Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
002.	*Laurel County Fiscal Court - Bush Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
003.	*Laurel County Fiscal Court - Campground Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
004.	*Laurel County Fiscal Court - Crossroads Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
005.	*Laurel County Fiscal Court - East Bernstadt Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
006.	*Laurel County Fiscal Court - Health Department - Community Walking Track Equipment*		
	Restricted Funds	*20,000*	*-0-*
007.	*Laurel County Fiscal Court - Keavy Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
008.	*Laurel County Fiscal Court - Laurel County Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
009.	*Laurel County Fiscal Court - Laurel County Rescue Squad - Equipment*		
	Restricted Funds	*12,000*	*5,000*

010.	*Laurel County Fiscal Court - Library - Supplies*		
	Restricted Funds	*5,000*	*5,382*
011.	*Laurel County Fiscal Court - Lily Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
012.	*Laurel County Fiscal Court - London/Laurel County Optimist Club*		
	Restricted Funds	*25,000*	*40,000*
013.	*Laurel County Fiscal Court - London Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
014.	*Laurel County Fiscal Court - McWhorter Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
015.	*Laurel County Fiscal Court - North Laurel Little League - Capital Construction*		
	Restricted Funds	*20,000*	*25,000*
016.	*Laurel County Fiscal Court - OPAC*		
	Restricted Funds	*15,000*	*15,000*
017.	*Laurel County Fiscal Court - Swiss Colony Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
018.	*Laurel County Fiscal Court - Veterans Memorial - Improvements*		
	Restricted Funds	*30,000*	*-0-*
Lawrence County			
001.	*City of Louisa - Downtown Beautification, Building, Sidewalk, and Street Improvements, Infrastructure, City Park and City Pool Upgrades, and any other Enhancements*		
	Restricted Funds	*50,000*	*50,000*
002.	*City of Louisa - Lawrence County Public Library - Technology Upgrades, Construction, Library Enhancements and Improvements*		
	Restricted Funds	*75,000*	*75,000*
003.	*Lawrence County Board of Education - Blaine Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*25,000*	*-0-*
004.	*Lawrence County Board of Education - Facility Improvements and Upgrades - New Floor and Lights - Lawrence County High School Gymnasium*		
	Restricted Funds	*150,000*	*-0-*
005.	*Lawrence County Board of Education - Fallsburg Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and*		

	Playground Equipment Upgrades		
	Restricted Funds	25,000	-0-
006.	Lawrence County Board of Education - Lawrence County Career Tech Program - Jr. Coal Academy - Program Equipment, Materials, Curriculum, and Training Enhancements - Other Improvements Related to Jr. Coal Academy		
	Restricted Funds	100,000	100,000
007.	Lawrence County Board of Education - Louisa Upper Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	25,000	-0-
008.	Lawrence County Fiscal Court - Blaine Fire Department - Equipment and Improvements		
	Restricted Funds	-0-	10,000
009.	Lawrence County Fiscal Court - Blaine City Park - Various Construction, Equipment, and Ground Improvements		
	Restricted Funds	15,000	15,000
010.	Lawrence County Fiscal Court - Cherryville Fire Department - Equipment and Improvements		
	Restricted Funds	-0-	10,000
011.	Lawrence County Fiscal Court - Fallsburg Fire Department - Equipment and Improvements		
	Restricted Funds	-0-	10,000
012.	Lawrence County Fiscal Court - Lawrence County Community Center - Facility and Ground Improvements, Related Upgrades, and Enhancements at the Community Center		
	Restricted Funds	50,000	25,000
013.	Lawrence County Fiscal Court - Lawrence County Industrial Park - Various Industrial Park Improvements and Upgrades		
	Restricted Funds	50,000	75,000
014.	Lawrence County Fiscal Court - Louisa #1 Fire Department - Equipment and Improvements		
	Restricted Funds	-0-	10,000
015.	Lawrence County Fiscal Court - Louisa #2 Fire Department - Equipment and Improvements		
	Restricted Funds	-0-	10,000
016.	Lawrence County Fiscal Court - Lowmansville Fire Department - Equipment and Improvements		
	Restricted Funds	-0-	10,000
017.	Lawrence County Fiscal Court - Pleasant Ridge Park - Various Park Improvements		
	Restricted Funds	100,000	100,000
018.	Lawrence County Fiscal Court - Stella Moore		

	Recreational Complex - Facility and Ground Improvements, Equipment, and other Enhancements		
	Restricted Funds	*50,000*	*-0-*
019.	*Lawrence County Fiscal Court - Webbville Fire Department - Equipment and Improvements*		
	Restricted Funds	*-0-*	*10,000*
020.	*Lawrence County Board of Education - Louisa Lower Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*25,000*	*-0-*
021.	*Lawrence County Board of Education - Louisa Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*25,000*	*-0-*
Lee County			
001.	*City of Beattyville - Renaissance*		
	Restricted Funds	*100,000*	*150,000*
002.	*Lee County Fiscal Court - Ambulance Service - Equipment*		
	Restricted Funds	*100,000*	*-0-*
003.	*Lee County Fiscal Court - Museum, Veterans' Wing - Improvements*		
	Restricted Funds	*40,000*	*-0-*
004.	*Lee County Fiscal Court - KY Mountain Mission Inc. of Southeast Kentucky*		
	Restricted Funds	*25,000*	*-0-*
005.	*Lee County Fiscal Court - Park - Improvements*		
	Restricted Funds	*50,000*	*-0-*
006.	*Lee County Fiscal Court - Senior Citizens - Equipment*		
	Restricted Funds	*-0-*	*47,000*
007.	*Lee County Fiscal Court - Three Forks Jail*		
	Restricted Funds	*100,000*	*100,000*
008.	*Lee County Fiscal Court - Volunteer Fire Department - Equipment*		
	Restricted Funds	*50,000*	*-0-*
Leslie County			
001.	*City of Hyden - Pedway Project*		
	Restricted Funds	*100,000*	*-0-*
002.	*Hyden Leslie Water District - Replace Transmission Mains in the City of Hyden and Install Fire Hydrants*		
	Restricted Funds	*-0-*	*400,000*
003.	*Hyden Leslie Water District - Water Line Extension - Water Plant Expansion*		
	Restricted Funds	*250,000*	*200,000*
004.	*Kentucky River ADD - Past Dues*		

	Restricted Funds	*53,000*	*-0-*
005.	*Leslie County Board of Education - Beechfork Community Center - Property Acquisition*		
	Restricted Funds	*320,000*	*-0-*
006.	*Leslie County Board of Education - Leslie County High School Band*		
	Restricted Funds	*14,000*	*-0-*
007.	*Leslie County Board of Education - Student Bus Loading Canopy*		
	Restricted Funds	*-0-*	*100,000*
008.	*Leslie County Board of Education - Technology Infrastructure and Student Lab Computers*		
	Restricted Funds	*100,000*	*100,000*
009.	*Leslie County Fiscal Court - Beechfork Community Center - Equipment, Operations, and Property Acquisition*		
	Restricted Funds	*180,000*	*-0-*
010.	*Leslie County Fiscal Court - Clerk's Office - Equipment*		
	Restricted Funds	*20,000*	*-0-*
011.	*Leslie County Fiscal Court - Community Development Center - Operations*		
	Restricted Funds	*74,000*	*80,000*
012.	*Leslie County Fiscal Court - Coon Creek Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
013.	*Leslie County Fiscal Court - C.R.E.E.K. Operations*		
	Restricted Funds	*100,000*	*75,000*
014.	*Leslie County Fiscal Court - Cutshin Fire and Rescue Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
015.	*Leslie County Fiscal Court - Debt Service for Refunding Bond Series 2003*		
	Restricted Funds	*113,650*	*-0-*
016.	*Leslie County Fiscal Court - Drug Awareness Program*		
	Restricted Funds	*10,000*	*10,000*
017.	*Leslie County Fiscal Court - E911 Center - New Facility - Construction*		
	Restricted Funds	*500,000*	*-0-*
018.	*Leslie County Fiscal Court - E911- Operations*		
	Restricted Funds	*200,000*	*200,000*
019.	*Leslie County Fiscal Court - Hyden Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
020.	*Leslie County Fiscal Court - Jail Bond Debt (Principal)*		
	Restricted Funds	*-0-*	*500,000*
021.	*Leslie County Fiscal Court - Leslie County Food Pantry*		
	Restricted Funds	*10,000*	*-0-*
022.	*Leslie County Fiscal Court - Leslie County Humane Society - Operations*		
	Restricted Funds	*10,000*	*4,500*

023.	*Leslie County Fiscal Court - Redbird Fire Department*		
	Restricted Funds	*10,000*	*-0-*
024.	*Leslie County Fiscal Court - RV Park - Improvements*		
	Restricted Funds	*75,000*	*-0-*
025.	*Leslie County Fiscal Court - Stinnett Fire and Rescue Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
026.	*Leslie County Fiscal Court - Stinnett Community Center - Community Development Project*		
	Restricted Funds	*150,000*	*-0-*
027.	*Leslie County Fiscal Court - Thousandsticks Fire and Rescue Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
028.	*Leslie County Fiscal Court - Transportation - County Roads - Equipment*		
	Restricted Funds	*425,000*	*611,441*
029.	*Leslie County Fiscal Court - Wooten Fire and Rescue Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
030.	*Leslie County Fiscal Court - Tim Lee Carter Building, Equipment, Repairs*		
	Restricted Funds	*-0-*	*12,800*
Letcher County			
001.	*City of Jenkins - Cumberland Mountain Arts and Crafts Council Project - Construction*		
	Restricted Funds	*100,000*	*-0-*
002.	*City of Jenkins - Jenkins Water Line - Replacement*		
	Restricted Funds	*100,000*	*-0-*
003.	*City of Neon - Neon/Haymond Sewer Project*		
	Restricted Funds	*500,000*	*-0-*
004.	*City of Whitesburg - Easta Craft Conway Center - Improvements - Operations*		
	Restricted Funds	*100,000*	*100,000*
005.	*City of Whitesburg - Whitesburg Wastewater Plant*		
	Restricted Funds	*500,000*	*-0-*
006.	*Letcher County Fiscal Court - ATV Trail Development Fund - Tourism Development*		
	Restricted Funds	*100,000*	*-0-*
007.	*Letcher County Fiscal Court - Colson Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
008.	*Letcher County Fiscal Court - Cram Creek Water Extension*		
	Restricted Funds	*400,000*	*-0-*
009.	*Letcher County Fiscal Court - Cumberland River Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
010.	*Letcher County Fiscal Court - Cumberland River Water Project*		
	Restricted Funds	*-0-*	*600,000*
011.	*Letcher County Fiscal Court - Dry Fork Sewer Extension*		

	Restricted Funds	*-0-*	*400,000*
012.	*Letcher County Fiscal Court - Gordon Community Park - Improvements*		
	Restricted Funds	*35,000*	*-0-*
013.	*Letcher County Fiscal Court - Gordon Fire Department - Vehicle*		
	Restricted Funds	*100,000*	*-0-*
014.	*Letcher County Fiscal Court - Gordon Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
015.	*Letcher County Fiscal Court - Hemphill Community Center - Equipment*		
	Restricted Funds	*10,000*	*10,000*
016.	*Letcher County Fiscal Court - Highway 1181/ Highway 15 (Smoot Creek) Water Line Extension*		
	Restricted Funds	*-0-*	*300,000*
017.	*Letcher County Fiscal Court - Jenkins Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
018.	*Letcher County Fiscal Court - Kingscreek Community Center - Equipment*		
	Restricted Funds	*10,000*	*10,000*
019.	*Letcher County Fiscal Court - Kingscreek Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
020.	*Letcher County Fiscal Court - Letcher County Clerk's Office - Equipment*		
	Restricted Funds	*30,000*	*-0-*
021.	*Letcher County Fiscal Court - Letcher County Parks - Improvements*		
	Restricted Funds	*50,000*	*50,000*
022.	*Letcher County Fiscal Court - Letcher County PVA's Office - Equipment*		
	Restricted Funds	*10,000*	*-0-*
023.	*Letcher County Fiscal Court - Letcher County Recreation Park - Improvements*		
	Restricted Funds	*-0-*	*125,000*
024.	*Letcher County Fiscal Court - Letcher County Sheriff's Department - Equipment*		
	Restricted Funds	*70,000*	*-0-*
025.	*Letcher County Fiscal Court - Letcher Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
026.	*Letcher County Fiscal Court - Mayking Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
027.	*Letcher County Fiscal Court - McRoberts Community Center - Construction*		
	Restricted Funds	*115,000*	*-0-*

028.	*Letcher County Fiscal Court - Mountain Water District - Booker Branch Water Project*		
	Restricted Funds	*100,000*	*-0-*
029.	*Letcher County Fiscal Court - Neon Library - Construction*		
	Restricted Funds	*150,000*	*-0-*
030.	*Letcher County Fiscal Court - Neon Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
031.	*Letcher County Fiscal Court - Neon Volunteer Fire Department - New Regional Training Center*		
	Restricted Funds	*200,000*	*200,000*
032.	*Letcher County Fiscal Court - Partridge Community Park - Improvements*		
	Restricted Funds	*-0-*	*25,000*
033.	*Letcher County Fiscal Court - Sandlick Community Park - Improvements*		
	Restricted Funds	*-0-*	*25,000*
034.	*Letcher County Fiscal Court - Sandlick Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
035.	*Letcher County Fiscal Court - Thornton Community Park - Improvements*		
	Restricted Funds	*-0-*	*25,000*
036.	*Letcher County Fiscal Court - Whitesburg Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
037.	*Letcher County Fiscal Court - Eolia Park Improvements*		
	Restricted Funds	*25,000*	*-0-*
038.	*Letcher County Airport Board - New Airport Planning and Engineering*		
	Restricted Funds	*20,000*	*-0-*
039.	*Letcher County Board of Education - Purchase Mayking Head Start Building for LKLP Head Start*		
	Restricted Funds	*120,000*	*-0-*
040.	*Southeast Kentucky Community Technical College - Explore College Program*		
	Restricted Funds	*150,000*	*-0-*
041.	*Letcher County Board of Education - Letcher County Central Vocational School*		
	Restricted Funds	*750,000*	*-0-*
042.	*City of Jenkins - Jenkins Sewer System - Upgrades*		
	Restricted Funds	*125,000*	*-0-*
Magoffin County			
001.	*Magoffin County Fiscal Court - Administration Building*		
	Restricted Funds	*500,000*	*-0-*
002.	*Magoffin County Fiscal Court - Bloomington*		

	Fire Department - Equipment		
	Restricted Funds	*-0-*	*20,000*
003.	*Magoffin County Fiscal Court - City Hall - Restoration*		
	Restricted Funds	*100,000*	*100,000*
004.	*Magoffin County Fiscal Court - Horse Arena*		
	Restricted Funds	*150,000*	*-0-*
005.	*Magoffin County Fiscal Court - Magoffin County Rescue Squad - Equipment and Operations*		
	Restricted Funds	*35,000*	*-0-*
006.	*Magoffin County Fiscal Court - Magoffin County Sheriff's Office - Vehicle and Safety Equipment*		
	Restricted Funds	*15,200*	*60,000*
007.	*Magoffin County Fiscal Court - Middle Fork Fire Department - Equipment*		
	Restricted Funds	*-0-*	*20,000*
008.	*Magoffin County Fiscal Court - Northern Magoffin Fire Department - Equipment*		
	Restricted Funds	*-0-*	*20,000*
009.	*Magoffin County Fiscal Court - Ramey Memorial Park and Bridge Match*		
	Restricted Funds	*-0-*	*135,000*
010.	*Magoffin County Fiscal Court - Reach - Operations*		
	Restricted Funds	*20,000*	*-0-*
011.	*Magoffin County Fiscal Court - Royalton Fire Department - Equipment*		
	Restricted Funds	*-0-*	*20,000*
012.	*Magoffin County Fiscal Court - Salyersville Fire Department*		
	Restricted Funds	*-0-*	*80,000*
013.	*Magoffin County Fiscal Court - Salyersville Renaissance*		
	Restricted Funds	*-0-*	*50,000*
014.	*Magoffin County Fiscal Court - Salyersville Fire Department - Equipment*		
	Restricted Funds	*-0-*	*20,000*
015.	*Magoffin County Fiscal Court - Teen Center - Operations*		
	Restricted Funds	*-0-*	*20,000*
016.	*Magoffin County Fiscal Court - D.A.V. Chapter 15*		
	Restricted Funds	*25,000*	*-0-*
017.	*Magoffin County Fiscal Court - American Legion Roy Cain Post 150*		
	Restricted Funds	*25,000*	*-0-*
018.	*Magoffin County Fiscal Court - North Magoffin Fire Department - Mini-Pumper Truck*		
	Restricted Funds	*94,000*	*6,000*
019.	*Magoffin County Fiscal Court - Improvements - Pool and Canopy Construction*		
	Restricted Funds	*-0-*	*30,600*

Martin County

001. *Martin County Board of Education -*

	Family Resource Centers - Improvements		
	Restricted Funds	*60,000*	*-0-*
002.	*Martin County Board of Education - Youth Activities Facility - Construction*		
	Restricted Funds	*250,000*	*-0-*
003.	*Martin County Fiscal Court - Courthouse - Renovation*		
	Restricted Funds	*150,000*	*-0-*
004.	*Martin County Fiscal Court - Fire Hydrants*		
	Restricted Funds	*50,000*	*-0-*
005.	*Martin County Fiscal Court - Inez Park - Improvements*		
	Restricted Funds	*25,000*	*-0-*
006.	*Martin County Fiscal Court - Mountain Scenic Overlook - Construction*		
	Restricted Funds	*75,000*	*-0-*
007.	*Martin County Fiscal Court - New Warfield Firehouse - Construction*		
	Restricted Funds	*75,000*	*-0-*
008.	*Martin County Fiscal Court - Pigeon Roost Park - Improvements*		
	Restricted Funds	*50,000*	*-0-*
009.	*Martin County Fiscal Court - Public Library - Automation*		
	Restricted Funds	*50,000*	*-0-*
010.	*Martin County Fiscal Court - Public Library - Rufus Reed - Improvements*		
	Restricted Funds	*25,000*	*-0-*
011.	*Martin County Fiscal Court - Ray Fields Park - Renovation of Swimming Pool*		
	Restricted Funds	*100,000*	*-0-*
012.	*Martin County Fiscal Court - Roy F. Collier Community Center - Operations Grant*		
	Restricted Funds	*250,000*	*-0-*
013.	*Martin County Fiscal Court - Sheriff's Offices - Vehicles*		
	Restricted Funds	*100,000*	*-0-*
014.	*Martin County Fiscal Court - Technology Building - Construction*		
	Restricted Funds	*3,500,000*	*-0-*
015.	*Martin County Fiscal Court - Warfield Park - Improvements*		
	Restricted Funds	*25,000*	*-0-*
016.	*Martin County Fiscal Court - Wolfe Creek Substance Abuse Center for Women - Improvements*		
	Restricted Funds	*200,000*	*-0-*
017.	*Martin County Fiscal Court - Complete Construction on Historical Building*		
	Restricted Funds	*125,000*	*-0-*

McCreary County

001. McCreary County Fiscal Court - Feasibility Study - Cumberland Falls		
Restricted Funds	-0-	25,000
002. McCreary County Fiscal Court - Park Site Development		
Restricted Funds	101,300	89,700
003. McCreary County Fiscal Court - Senior Citizens Building - Improvements		
Restricted Funds	50,000	-0-
004. McCreary County Industrial Development Authority - Industrial Equipment and Development		
Restricted Funds	35,000	35,000
McLean County		
001. McLean County Fiscal Court - Broadband		
Restricted Funds	-0-	100,000
002. McLean County Fiscal Court - Fire Hydrants		
Restricted Funds	-0-	19,362
003. McLean County Fiscal Court - Parks Board		
Restricted Funds	-0-	50,000
004. McLean County Fiscal Court - Southeast District Fire Station - Building Expansion		
Restricted Funds	23,379	-0-
005. McLean County Fiscal Court - Water Extension - Leachman School House Road		
Restricted Funds	40,000	-0-
006. McLean County Fiscal Court - Water Extension - Beech Grove		
Restricted Funds	-0-	75,000
007. McLean County Fiscal Court - Water Extension - Leachman School House Road		
Restricted Funds	-0-	60,000
Menifee County		
001. City of Frenchburg - Feasibility Study for Horse Trail Development around Cave Run Lake and/or Trail Development at Murder Branch		
Restricted Funds	15,000	-0-
002. City of Frenchburg - Pedestrian Walkway - Front of Menifee County High School		
Restricted Funds	20,000	-0-
003. Menifee County Board of Education - Botts Elementary - Playground Equipment		
Restricted Funds	15,000	-0-
004. Menifee County Board of Education - Botts Elementary School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
Restricted Funds	5,000	-0-
005. Menifee County Board of Education - Frenchburg Elementary School - Facility and Ground		

	Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	*5,000*	*-0-*
006.	*Menifee County Board of Education - Menifee County High School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
007.	*Menifee County Board of Education - Menifee County Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
008.	*Menifee County Board of Education - Menifee County Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
009.	*Menifee County Fiscal Court - 911 Emergency Dispatch Center Upgrades*		
	Restricted Funds	*-0-*	*20,000*
010.	*Menifee County Fiscal Court - Baseball Field - Improvements*		
	Restricted Funds	*-0-*	*20,000*
011.	*Menifee County Fiscal Court - Emergency Rescue Squad - Equipment and Operations*		
	Restricted Funds	*-0-*	*5,000*
012.	*Menifee County Fiscal Court - Public Library - 50/50 Match Automated Upgrade Grant*		
	Restricted Funds	*-0-*	*10,000*
013.	*Menifee County Fiscal Court - Sheriff - Transport Van*		
	Restricted Funds	*-0-*	*30,000*
014.	*Menifee County Fiscal Court - Sheriff's Office - Equipment*		
	Restricted Funds	*15,000*	*5,000*
Morgan County			
001.	*Morgan County Board of Education - Alternative School Program*		
	Restricted Funds	*50,000*	*50,000*
002.	*Morgan County Board of Education - Canel City Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
003.	*Morgan County Board of Education - East Valley Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and*		

	other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	5,000	-0-
004.	Morgan County Board of Education - Ezel Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	5,000	-0-
005.	Morgan County Board of Education - Football Field - Renovate Dressing Facilities		
	Restricted Funds	18,000	-0-
006.	Morgan County Board of Education - High School - Concession Stand - Equipment and Improvements		
	Restricted Funds	10,000	-0-
007.	Morgan County Board of Education - High School - Football Field - Improvements		
	Restricted Funds	20,000	-0-
008.	Morgan County Board of Education - High School - Track and Practice Field - Improvements		
	Restricted Funds	60,000	-0-
009.	Morgan County Board of Education - Morgan County High School - Day Treatment Drug Program		
	Restricted Funds	10,000	25,000
010.	Morgan County Board of Education - Morgan County High School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades		
	Restricted Funds	5,000	-0-
011.	Morgan County Board of Education - Morgan Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades		
	Restricted Funds	5,000	-0-
012.	Morgan County Board of Education - West Liberty Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	5,000	-0-
013.	Morgan County Board of Education - Wrigley Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	5,000	-0-

014.	*Appalachian Regional Hospital - Diabetes Program - Regional, Technology and Business Center*		
	Restricted Funds	*20,000*	*20,000*
015.	*Blackwater Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
016.	*Caney Valley Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
017.	*Crockett Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
018.	*Disabled American Vets - Operating Expenses - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*5,000*
019.	*East Kentucky ATV Association - Equipment and Trail Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*10,000*	*-0-*
020.	*Feasibility Study for the Morgan County Saddle Club for Horse Trail Development Around Cave Run Lake/Trail Development*		
	Restricted Funds	*15,000*	*-0-*
021.	*Food Pantry - Regional, Technology and Business Center - Operations*		
	Restricted Funds	*5,000*	*-0-*
022.	*Oral Health Screening for Elderly with UK - Regional, Technology and Business Center*		
	Restricted Funds	*-0-*	*25,000*
023.	*Peddler Gap Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
024.	*Morgan County Public Library - Maintenance, Equipment, and Upgrades*		
	Restricted Funds	*10,000*	*10,000*
025.	*Senior Citizens - Operations - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*5,000*
026.	*Sheriff's Department - Equipment*		
	Restricted Funds	*-0-*	*15,000*
027.	*White Oak Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
028.	*WPA Museum - Operating and Maintenance -*		

	Regional, Technology and Business Center ***Restricted Funds***	***-0-***	***10,000***
029.	***Morgan County Rescue Squad - Operations, Improvements, and Equipment - Regional, Technology and Business Center*** ***Restricted Funds***	***5,000***	***-0-***
030.	***519 Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*** ***Restricted Funds***	***5,000***	***-0-***
031.	***Wrigley Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*** ***Restricted Funds***	***5,000***	***-0-***
032.	***Morgan County Board of Education - Morgan County High School Industrial Education Building Renovation*** ***Restricted Funds***	***25,000***	***-0-***
033.	***Morgan County Tuition Grant Program - Regional, Technology and Business Center*** ***Restricted Funds***	***-0-***	***60,000***
Muhlenberg County			
001.	***City of Bremen - Community Center Repair*** ***Restricted Funds***	***10,000***	***-0-***
002.	***City of Drakesboro - Brown Field Remediation Project to Locate City Building Complex on Old Aluminum Smelter Facility*** ***Restricted Funds***	***205,000***	***-0-***
003.	***Muhlenberg County Board of Health - Construction of Wellness Center located at the Intersection of Cleaton Rd. and US 62 North or on the West Side of US 62 North Approximately 1/2 Mile North of Northern City Limit of Powderly*** ***Restricted Funds***	***1,000,000***	***-0-***
004.	***Muhlenberg County Fiscal Court for Muhlenberg Economic Enterprises Inc. (Industrial Board) to Operate Industrial Recruitment Program for Economic Development of Muhlenberg County*** ***Restricted Funds***	***250,000***	***-0-***
005.	***City of Greenville - Divide Equally to all Muhlenberg Fire Departments to Purchase Needed Equipment*** ***Restricted Funds***	***35,212***	***-0-***
Ohio County			
001.	***Ohio County Fiscal Court - 911 Equipment - Workstation and Radios*** ***Restricted Funds***	***45,000***	***-0-***
002.	***Ohio County Fiscal Court - Airport Water Line with Hydrant*** ***Restricted Funds***	***48,000***	***-0-***

003.	*Ohio County Fiscal Court - Ambulance - Vehicle*		
	Restricted Funds	*65,000*	*-0-*
004.	*Ohio County Fiscal Court - Bluegrass Crossings Industrial Park - Infrastructure*		
	Restricted Funds	*174,000*	*-0-*
005.	*Ohio County Fiscal Court - Broadband Infrastructure*		
	Restricted Funds	*250,000*	*-0-*
006.	*Ohio County Fiscal Court - Eight Welcome Ohio County Signs*		
	Restricted Funds	*19,000*	*-0-*
007.	*Ohio County Fiscal Court - Repair Two Bridges - Hamlin Chapel Road #C-285*		
	Restricted Funds	*35,000*	*-0-*
008.	*Ohio County Fiscal Court - Road Department - Backhoe*		
	Restricted Funds	*70,000*	*-0-*
009.	*Ohio County Fiscal Court - Road Department - De-icer Equipment*		
	Restricted Funds	*25,000*	*-0-*
010.	*Ohio County Fiscal Court - Seven Community Weather Sirens*		
	Restricted Funds	*110,000*	*-0-*
011.	*Ohio County Fiscal Court - Sports Complex - Improvements*		
	Restricted Funds	*50,000*	*-0-*
012.	*Ohio County Fiscal Court - Bill Monroe Museum/ Art Center - Planning and Design*		
	Restricted Funds	*250,000*	*-0-*
Owsley County			
001.	*City of Booneville - Match Money for Police Cruiser*		
	Restricted Funds	*8,000*	*-0-*
002.	*Owsley County Board of Education - Capital Construction and Equipment - "The Owl"*		
	Restricted Funds	*25,000*	*25,000*
003.	*Owsley County Fiscal Court - Booneville City Fire Department - Equipment*		
	Restricted Funds	*10,000*	*10,000*
004.	*Owsley County Fiscal Court - Cemetery - Cleanup Costs*		
	Restricted Funds	*-0-*	*15,000*
005.	*Owsley County Fiscal Court - Industrial Authority - Operating Expenses*		
	Restricted Funds	*-0-*	*29,365*
006.	*Owsley County Fiscal Court - Industrial Loan for Spec Building in Industrial Park - Paying Interest on Building*		
	Restricted Funds	*16,126*	*-0-*
007.	*Owsley County Fiscal Court - Island City Fire Department - Equipment*		
	Restricted Funds	*10,000*	*10,000*

008.	*Owsley County Fiscal Court - Senior Citizens Center - Repairs and Construction*		
	Restricted Funds	*100,000*	*100,000*
009.	*Owsley County Fiscal Court - Sheriff's Office*		
	Restricted Funds	*45,000*	*-0-*
010.	*Owsley County Fiscal Court - Three Forks Regional Jail - Maintenance and Expenses*		
	Restricted Funds	*-0-*	*200,000*
011.	*Owsley County Fiscal Court - Vincent Fire Department - Equipment*		
	Restricted Funds	*10,000*	*10,000*
012.	*Owsley County Library Board - Land Acquisition*		
	Restricted Funds	*150,000*	*-0-*
Perry County			
001.	*City of Buckhorn - Buckhorn Lake - Economic Development Fund*		
	Restricted Funds	*150,000*	*-0-*
002.	*City of Buckhorn - Sewer and Water - Operations and Expense*		
	Restricted Funds	*200,000*	*-0-*
003.	*City of Hazard - Equipment Fund*		
	Restricted Funds	*250,000*	*-0-*
004.	*Hazard Independent School Board - Expense*		
	Restricted Funds	*100,000*	*50,000*
005.	*Perry County Board of Education - Perry County Schools - Expense and Air Conditioning for High School Gym*		
	Restricted Funds	*150,000*	*150,000*
006.	*Perry County Fiscal Court - Economic Development and Tourism Initiative - Operations and Expense*		
	Restricted Funds	*100,000*	*300,000*
007.	*Perry County Fiscal Court - Avawam Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
008.	*Perry County Fiscal Court - Buckhorn Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
009.	*Perry County Fiscal Court - Challenger Center - Operations and Expense*		
	Restricted Funds	*100,000*	*100,000*
010.	*Perry County Fiscal Court - Civil War Reenactment - Tourism Fund*		
	Restricted Funds	*10,000*	*10,000*
011.	*Perry County Fiscal Court - Clerk's Office - Virtual Courthouse Modernization*		
	Restricted Funds	*50,000*	*-0-*
012.	*Perry County Fiscal Court - Cornettsville Volunteer Fire Department - Operations and Equipment*		

	Restricted Funds	*5,384*	*5,384*
013.	*Perry County Fiscal Court - Fisty Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
014.	*Perry County Fiscal Court - Grapevine Chavies Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
015.	*Perry County Fiscal Court - Jakes Branch Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
016.	*Perry County Fiscal Court - Drug Rehabilitation*		
	Restricted Funds	*150,000*	*-0-*
017.	*Perry County Fiscal Court - Krypton Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
018.	*Perry County Fiscal Court - Leatherwood Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
019.	*Perry County Fiscal Court - Lost Creek Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
020.	*Perry County Fiscal Court - Lotts Creek Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
021.	*Perry County Fiscal Court - Park - Expansion and Maintenance*		
	Restricted Funds	*200,000*	*-0-*
022.	*Perry County Fiscal Court - Regional Jail - Operations and Expense*		
	Restricted Funds	*250,000*	*-0-*
023.	*Perry County Fiscal Court - Senior Citizens - Sustenance Fund and New Building Expense*		
	Restricted Funds	*20,000*	*20,000*
024.	*Perry County Fiscal Court - Senior Citizens - Wellness Center*		
	Restricted Funds	*-0-*	*330,000*
025.	*Perry County Fiscal Court - Sewer Treatment - Pilot Project Hiner Sewer*		
	Restricted Funds	*100,000*	*50,000*
026.	*Perry County Fiscal Court - Sheriff - Operating Expense to Combat Drugs*		
	Restricted Funds	*250,000*	*-0-*
027.	*Perry County Fiscal Court - South Perry Water Line - Expansion Phase II and Phase III*		
	Restricted Funds	*73,000*	*442,000*
028.	*Perry County Fiscal Court - Troublesome Creek Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
029.	*Perry County Fiscal Court - University Center*		

	of the Mountains - Operations and Expense		
	Restricted Funds	*-0-*	*500,000*
030.	*Perry County Fiscal Court - University of Kentucky for Rural Health Indigent Primary School - Operations and Expense*		
	Restricted Funds	*250,000*	*-0-*
031.	*Perry County Fiscal Court - Vicco Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
032.	*Perry County Fiscal Court - Viper Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
033.	*Perry County Fiscal Court - Wendell Ford Airport Expansion*		
	Restricted Funds	*200,000*	*-0-*
034.	*Perry County Fiscal Court - Sewer Maintenance/Improvement*		
	Restricted Funds	*-0-*	*200,000*
035.	*Perry County Fiscal Court - South Perry Water Line Extension*		
	Restricted Funds	*400,000*	*-0-*
Pike County			
001.	*City of Pikeville - Big Sandy Heritage Center*		
	Restricted Funds	*25,000*	*25,000*
002.	*City of Pikeville - Bob Amos Park - Sidewalks and Improvements*		
	Restricted Funds	*100,000*	*100,000*
003.	*City of Pikeville - Domestic Violence Center*		
	Restricted Funds	*75,000*	*75,000*
004.	*City of Pikeville - Humane Society - Operating*		
	Restricted Funds	*100,000*	*-0-*
005.	*City of Pikeville - Marion Branch Economic Development - Construction*		
	Restricted Funds	*500,000*	*500,000*
006.	*City of Pikeville - Pike/Floyd Sewer Project*		
	Restricted Funds	*300,000*	*-0-*
007.	*Mountain Water District - Elkhorn Creek Water*		
	Restricted Funds	*-0-*	*300,000*
008.	*Mountain Water District - Forest Hill Sewer Phase II*		
	Restricted Funds	*1,280,000*	*-0-*
009.	*Mountain Water District - Justiceville/Garden Village Sewer/Shelby Phase IV*		
	Restricted Funds	*-0-*	*1,000,000*
010.	*Mountain Water District - LMI Connections Water Project*		
	Restricted Funds	*400,000*	*-0-*
011.	*Mountain Water District - Millard Water Main Replacement*		
	Restricted Funds	*-0-*	*400,000*
012.	*Mountain Water District - Smith Fork Sewer Project*		
	Restricted Funds	*-0-*	*1,400,000*
013.	*Mountain Water District - Water Plant Expansion*		

	Restricted Funds	*1,000,000*	*-0-*
014.	*Pike County Board of Education - Belfry YSC - Operating*		
	Restricted Funds	*4,296*	*-0-*
015.	*Pike County Board of Education - Belfry Middle School - Operating*		
	Restricted Funds	*3,561*	*-0-*
016.	*Pike County Board of Education - Bevins Elementary School - Operating*		
	Restricted Funds	*1,752*	*-0-*
017.	*Pike County Board of Education - Blackberry Elementary School - Operating*		
	Restricted Funds	*1,639*	*-0-*
018.	*Pike County Board of Education - Dorton Elementary School - Operating*		
	Restricted Funds	*3,957*	*-0-*
019.	*Pike County Board of Education - East Ridge YSC - Operating*		
	Restricted Funds	*7,688*	*-0-*
020.	*Pike County Board of Education - Elkhorn City Elementary - Operating*		
	Restricted Funds	*9,893*	*-0-*
021.	*Pike County Board of Education - Feds Creek - Operating*		
	Restricted Funds	*7,123*	*-0-*
022.	*Pike County Board of Education - Johns Creek - Operating*		
	Restricted Funds	*3,844*	*-0-*
023.	*Pike County Board of Education - Kimper Elementary School - Operating*		
	Restricted Funds	*1,865*	*-0-*
024.	*Pike County Board of Education - Millard Middle School - Operating*		
	Restricted Funds	*4,409*	*-0-*
025.	*Pike County Board of Education - Mullins - Operating*		
	Restricted Funds	*2,940*	*-0-*
026.	*Pike County Board of Education - Phelps Elementary School - Operating*		
	Restricted Funds	*4,918*	*-0-*
027.	*Pike County Board of Education - Phelps High School - Athletic Field - Improvements*		
	Restricted Funds	*100,000*	*-0-*
028.	*Pike County Board of Education - Phelps YSC - Operating*		
	Restricted Funds	*8,140*	*-0-*
029.	*Pike County Board of Education - Pike Central - Operating*		
	Restricted Funds	*5,031*	*-0-*

030.	*Pike County Board of Education - Pike Central High School - Athletic Complex - Equipment, Operating, and Improvements*		
	Restricted Funds	*25,000*	*25,000*
031.	*Pike County Board of Education - Robinson Creek - Operating*		
	Restricted Funds	*4,522*	*-0-*
032.	*Pike County Board of Education - Runyon Elementary School - Operating*		
	Restricted Funds	*4,070*	*-0-*
033.	*Pike County Board of Education - Shelby Valley - Operating*		
	Restricted Funds	*4,296*	*-0-*
034.	*Pike County Board of Education - Shelby Valley High School - Athletic Field - Improvements*		
	Restricted Funds	*100,000*	*-0-*
035.	*Pike County Board of Education - Southside Elementary School - Operating*		
	Restricted Funds	*4,975*	*-0-*
036.	*Pike County Board of Education - Virgie Middle School - Operating*		
	Restricted Funds	*2,261*	*-0-*
037.	*Pike County Board of Education - G.F. Johnson - Operating*		
	Restricted Funds	*2,657*	*-0-*
038.	*Pike County Board of Education - Majestic Elementary School - Operating*		
	Restricted Funds	*6,162*	*-0-*
039.	*Pike County Fiscal Court - Belfry Fire Department - Equipment, Operating, and Improvements*		
	Restricted Funds	*50,000*	*-0-*
040.	*Pike County Fiscal Court - Big Creek Fire Department - Operations*		
	Restricted Funds	*50,000*	*-0-*
041.	*Pike County Fiscal Court - Big Sandy Child Advocacy Center*		
	Restricted Funds	*25,000*	*25,000*
042.	*Pike County Fiscal Court - Blackberry Senior Citizens Program - Construction, Operating, and Improvements*		
	Restricted Funds	*50,000*	*-0-*
043.	*Pike County Fiscal Court - City of Elkhorn City - Housing Development Corporation*		
	Restricted Funds	*100,000*	*-0-*
044.	*Pike County Fiscal Court - East Kentucky Expo Center*		
	Restricted Funds	*100,000*	*-0-*
045.	*Pike County Fiscal Court - Elkhorn City*		

	Art Center *Restricted Funds*	*100,000*	*-0-*
046.	*Pike County Fiscal Court - Elkhorn City Heritage Council* *Restricted Funds*	*5,000*	*5,000*
047.	*Pike County Fiscal Court - Elkhorn City Railroad Museum - Equipment, Operating, and Improvements* *Restricted Funds*	*5,000*	*-0-*
048.	*Pike County Fiscal Court - Elkhorn City Renaissance Program - Equipment, Operating, and Improvements* *Restricted Funds*	*20,000*	*-0-*
049.	*Pike County Fiscal Court - Elkhorn City Water Lines - Repair, Replace, and Restore - Equipment, Operating, and Improvements* *Restricted Funds*	*200,000*	*-0-*
050.	*Pike County Fiscal Court - Feds Creek Fire Department - Equipment, Operating, and Improvements* *Restricted Funds*	*50,000*	*-0-*
051.	*Pike County Fiscal Court - Ferrells Creek Fire Department - Operating and Improvements* *Restricted Funds*	*50,000*	*-0-*
052.	*Pike County Fiscal Court - Hatfield Fire Department - Equipment, Operating, and Improvements* *Restricted Funds*	*-0-*	*50,000*
053.	*Pike County Fiscal Court - Hatfield McCoy Trail Development Fund - Tourism Development* *Restricted Funds*	*100,000*	*-0-*
054.	*Pike County Fiscal Court - Hellier Veterans Center - Improvements* *Restricted Funds*	*20,000*	*-0-*
055.	*Pike County Fiscal Court - HOPE, Inc. (Three Centers) - Equipment, Operating, and Improvements* *Restricted Funds*	*75,000*	*75,000*
056.	*Pike County Fiscal Court - Johns Creek Community Center - Improvements* *Restricted Funds*	*15,000*	*-0-*
057.	*Pike County Fiscal Court - Kimper Fire Department - New Trucks* *Restricted Funds*	*150,000*	*-0-*
058.	*Pike County Fiscal Court - KY HOPE - Equipment, Operating, and Improvements* *Restricted Funds*	*80,000*	*80,000*
059.	*Pike County Fiscal Court - Long Fork Community Center - Construction, Equipment, and Operating Costs* *Restricted Funds*	*50,000*	*150,000*
060.	*Pike County Fiscal Court - Lower Johns Creek Fire Department - Equipment* *Restricted Funds*	*-0-*	*25,000*

061.	*Pike County Fiscal Court - Old Pond Fire Department*		
	Restricted Funds	*25,000*	*-0-*
062.	*Pike County Fiscal Court - Open Fork Community Center - Equipment, Operating, and Improvements*		
	Restricted Funds	*50,000*	*-0-*
063.	*Pike County Fiscal Court - Phelps Fire Department - Building Expansion*		
	Restricted Funds	*30,000*	*-0-*
064.	*Pike County Fiscal Court - Pike County DAV/VFW - Operating and Improvements*		
	Restricted Funds	*50,000*	*50,000*
065.	*Pike County Fiscal Court - Pike County Fire Departments - Equipment, Operating, and Improvements*		
	Restricted Funds	*100,000*	*100,000*
066.	*Pike County Fiscal Court - Pike County Jail - Improvements*		
	Restricted Funds	*250,000*	*250,000*
067.	*Pike County Fiscal Court - Pike County Recreational Department*		
	Restricted Funds	*240,000*	*240,000*
068.	*Pike County Fiscal Court - Senior Citizens Program - Equipment, Operating, and Improvements*		
	Restricted Funds	*100,000*	*-0-*
069.	*Pike County School Board - Belfry - Athletic Complex - Equipment, Operating, and Improvements*		
	Restricted Funds	*25,000*	*25,000*
070.	*Pike County School Board - Phelps High School - Phelps History Center - Equipment, Operating, and Improvements*		
	Restricted Funds	*35,000*	*35,000*
071.	*KCTCS - Big Sandy Community College - Pikeville Campus Kentucky Coal Academy Program*		
	Restricted Funds	*125,000*	*125,000*
072.	*Pike County Fiscal Court - Pike County Sheriff's Office - Equipment Purchases (Cruisers)*		
	Restricted Funds	*150,000*	*-0-*
073.	*Pike County Fiscal Court - Pikeville Medical Center - Juvenile Drug Treatment Program*		
	Restricted Funds	*125,000*	*125,000*
074.	*Pike County Fiscal Court - Westcare Kentucky - Pike County Facility - Operations Support*		
	Restricted Funds	*125,000*	*125,000*
075.	*Pike County Fiscal Court - Elkhorn City Heritage Council - White Water Park Feasibility Study*		
	Restricted Funds	*25,000*	*-0-*
076.	*Pike County Board of Education - East Ridge High School - Athletic Programs*		
	Restricted Funds	*50,000*	*-0-*

077.	*Pike County Board of Education - Pikeville High School for Athletic Programs*		
	Restricted Funds	*50,000*	*-0-*
Rockcastle County			
001.	*City of Mt. Vernon - Reconstruct Sidewalk/ Lovell Lane*		
	Restricted Funds	*40,000*	*-0-*
002.	*Rockcastle County Fiscal Court - Brindle Ridge Fire Department - Equipment*		
	Restricted Funds	*10,000*	*7,500*
003.	*City of Brodhead - Brodhead Fire Department - Equipment*		
	Restricted Funds	*10,000*	*7,500*
004.	*Rockcastle County Fiscal Court - Kentucky Music Museum and Hall of Fame - Improvements*		
	Restricted Funds	*150,000*	*93,800*
005.	*City of Livingston - Livingston Fire Department - Equipment*		
	Restricted Funds	*10,000*	*7,500*
006.	*City of Mt. Vernon - Mt. Vernon Fire Department - Equipment*		
	Restricted Funds	*10,000*	*7,500*
007.	*Rockcastle County Fiscal Court - Quail Fire Department - Equipment*		
	Restricted Funds	*10,000*	*7,500*
008.	*Rockcastle County Fiscal Court - Rockcastle Fire Department - Equipment*		
	Restricted Funds	*10,000*	*7,500*
Union County			
001.	*City of Sturgis - Rest Home - Window Replacement, Tile, and Other Needed Furnishings*		
	Restricted Funds	*50,000*	*-0-*
002.	*Union County Fiscal Court - Morganfield Renaissance Park*		
	Restricted Funds	*15,000*	*-0-*
003.	*Union County Fiscal Court - Elkwood Public Golf Course - Equipment to Maintain Fairways and Greens, Paving of Cart Path, and Other Needs of the Golf Course Including but not Limited to the Pro Golf Shop*		
	Restricted Funds	*75,000*	*-0-*
004.	*Union County Fiscal Court - Public Library - To Purchase Bookcases, Tables, Chairs, Computer Desks, and Other Expenses to Complete Interior*		
	Restricted Funds	*150,000*	*-0-*
005.	*Union County Fiscal Court - Sturgis Airport - Dump Truck with Snow Removal Equipment and other Equipment*		

Restricted Funds	84,000	-0-
006. Union County Fiscal Court - Sturgis Amphitheater - Sound Equipment, Roof Upgrade, and Seating Refurbishing		
Restricted Funds	50,000	-0-
007. Union County Fiscal Court - Union County Correctional Facility - Interest on Bond Payments		
Restricted Funds	450,000	450,000
008. Union County Fiscal Court - Union County YMCA - Upgrades of Heating, Air, Sidewalks, Emergency Lighting, Restrooms, and Rehabilitation of the Interior and Exterior of the Building		
Restricted Funds	75,000	-0-
009. Union County Fiscal Court - Uniontown Park		
Restricted Funds	10,000	-0-
010. Union County Fiscal Court - Van for Senior Services		
Restricted Funds	30,000	-0-
011. Union County Fiscal Court - Morganfield Recreational Park - Upgrade Facilities		
Restricted Funds	10,000	-0-
012. Union County Fiscal Court - Sturgis Horning Recreational Park - Upgrade Facilities		
Restricted Funds	10,000	-0-
013. Union County Fiscal Court - Volunteer Fire and Rescue Squads - Equipment and Upgrade Facilities - Divide Equally		
Restricted Funds	200,000	-0-
014. Union County Fiscal Court - Purchase Seven Acres of Property and Develop Small Business Incubator		
Restricted Funds	100,000	-0-
015. Union County Fiscal Court - Courthouse Exterior Improvements		
Restricted Funds	1,500	-0-
016. Union County Fiscal Court - Moffit Lake Improvements		
Restricted Funds	30,000	-0-
017. Union County Fiscal Court - James D. Veatch Museum - Upgrades and Maintenance		
Restricted Funds	30,000	-0-
018. Union County Fiscal Court - Union County Economic Development Projects		
Restricted Funds	970,800	970,800
Webster County		
001. City of Dixon - First Response Truck		
Restricted Funds	75,000	-0-
002. City of Dixon - Lighting for City Park Soccer Field		
Restricted Funds	40,000	-0-
003. City of Providence - Debt Service to KIA -		

	Water and Sewer Plant		
	Restricted Funds	*250,000*	*-0-*
004.	*City of Providence - Fire Station Repair*		
	Restricted Funds	*50,000*	*-0-*
005.	*City of Sebree - Economic Development Building and Repair*		
	Restricted Funds	*200,000*	*-0-*
006.	*City of Providence - Purchase Fire Truck*		
	Restricted Funds	*-0-*	*200,000*
007.	*City of Wheatcroft - City Park Improvements and Equipment*		
	Restricted Funds	*-0-*	*25,000*
008.	*City of Wheatcroft - Fire Department Building*		
	Restricted Funds	*50,000*	*-0-*
009.	*Webster County Fiscal Court - Blackford Bridge Park and Building*		
	Restricted Funds	*50,000*	*-0-*
010.	*Webster County Fiscal Court - Debt Service to KIA - Dixon Sewer*		
	Restricted Funds	*250,000*	*250,000*
011.	*Webster County Fiscal Court - Providence/Webster County Airport Board - Hangar Building and Repairs to Airport*		
	Restricted Funds	*-0-*	*70,000*
012.	*Webster County Industrial Development Authority - Revolving Loan Fund*		
	Restricted Funds	*250,000*	*400,000*
013.	*Webster County Water District - Equipment*		
	Restricted Funds	*250,000*	*-0-*
014.	*City of Clay - Renaissance Program*		
	Restricted Funds	*75,000*	*-0-*
015.	*City of Providence - Renaissance Program*		
	Restricted Funds	*75,000*	*-0-*
Whitley County			
001.	*Whitley County Fiscal Court - Corbin Police Department - One Police Cruiser*		
	Restricted Funds	*-0-*	*35,000*
002.	*Whitley County Fiscal Court - Historical Society - Improvements*		
	Restricted Funds	*10,000*	*-0-*
003.	*Whitley County Fiscal Court - Jail - Reopening and Startup Expense*		
	Restricted Funds	*200,000*	*-0-*
004.	*Whitley County Fiscal Court - Library - Books and Technology Upgrade*		
	Restricted Funds	*-0-*	*30,000*
005.	*Whitley County Fiscal Court - Purchase Equipment for Vegetation Control of Sensitive Areas*		
	Restricted Funds	*-0-*	*10,000*

006.	*Whitley County Fiscal Court - Senior Citizens - Service Upgrade*		
	Restricted Funds	*-0-*	*20,000*
007.	*Whitley County Fiscal Court - Sheriff's Department - Lease and Principal for Two Police Cars*		
	Restricted Funds	*-0-*	*64,000*

Section 43. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; P. Community Development Fund Projects; 1. General Government, at pages 1391 and 1392, is amended to read as follows:

Montgomery County			
001.	Juvenile Justice - Gateway Juvenile Diversion Center Operational Support		
	General Fund	50,000	50,000
002.	Juvenile Justice - Gateway Juvenile Diversion Center Renovation		
	Bond Funds	600,000	-0-
003.	Montgomery County Fiscal Court - Gateway Regional Arts Center		
	General Fund	50,000	50,000
Muhlenberg County			
001.	*Lake Malone State Park - Park Improvements and Miniature Golf Course*		
	Bond Funds	*200,000*	*-0-*
002.	Muhlenberg County Fiscal Court - Courthouse Dome Repair		
	Bond Funds	200,000	-0-
003.	Muhlenberg County Fiscal Court - Muhlenberg County Agricultural Center		
	General Fund	100,000	-0-
Nelson County			
001.	Nelson County Fiscal Court - Kentucky Railway Museum - Renovation/Upgrade, Road Bid and Bridge Improvements		
	Bond Funds	1,700,000	-0-
Oldham County			
001.	Oldham County Fair Board - Oldham County Fairgrounds Facility Renovation and Infrastructure Improvements		
	General Fund	100,000	-0-
002.	Oldham County Fiscal Court - Oldham County Parks Department - South Oldham Little League Improvement to Peggy Baker Park		
	General Fund	15,000	-0-
003.	Oldham County Fiscal Court - Westport Park Improvements		
	General Fund	-0-	250,000
004.	Oldham CountyFiscal Court - Library Improvements		
	Bond Funds	1,500,000	-0-
Pendleton County			

001.	Pendleton County Fiscal Court - Athletic Park Infrastructure and Construction of Concession Stand		
	General Fund	50,000	-0-
Pike County			
001.	*Pike County Fiscal Court - Pikeville Medical Center Planning, Design, and Construction*		
	Bond Funds	*1,500,000*	*-0-*
Pulaski County			
001.	City of Burnside - Park Infrastructure Improvement		
	General Fund	50,000	-0-
002.	City of Eubank - City Infrastructure Improvement		
	General Fund	50,000	-0-
003.	City of Science Hill - Park Infrastructure Improvement		
	General Fund	50,000	-0-
004.	City of Somerset - City Park Improvement		
	General Fund	100,000	-0-
005.	Pulaski County Board of Education - Pulaski Secondary Vocational School Project		
	General Fund	300,000	-0-
006.	Pulaski County Fiscal Court - Parks and Recreation Development		
	General Fund	200,000	200,000
Robertson County			
001.	Robertson County Board of Education - Deming School Replacement/Renovations		
	Bond Funds	500,000	-0-
002.	Robertson County Fiscal Court - Mt. Olivet Community Center		
	General Fund	300,000	-0-
Rockcastle County			
001.	City of Mt. Vernon - Relocate Utility Lines For Hospital Expansion		
	General Fund	100,000	-0-

Section 44. 2006 Kentucky Acts Chapter 252, Part XXVII, Judicial Branch Capital Projects Budget; 3. Bond Refinancings, at pages 1461 and 1462, is amended to read as follows:

3. Bond Refinancings

Any savings realized from bonds refinanced after November 1, 2005, associated with a court facility constructed or renovated after July 1, 1994, shall be shared by the local unit of government and the Court of Justice based on the proportional share of the original project costs borne by the local unit of government and the Court of Justice. The length of the term of the refinancing shall not extend beyond the original maturity date of the prior bonds.

The local unit of government may use the savings to make needed improvements to the court facility, if the annual lease payment of the state is not increased as a result of the refinancing. Improvements may consist of but are not limited to holding cells, additional parking, removing physical barriers in order to comply with the American Disabilities Act requirements, space additions for the holding of family court, and other needed improvements as determined by the local unit of government after consulting with the Administrative Office of the Courts.

Any debt obligations issued by or on behalf of a unit of government to finance a court facility leased to the Administrative Office of the Courts shall be publicly bid by the owner of the court facility in accordance with KRS 66.141.

Section 45. 2006 Kentucky Acts Chapter 250, Part I, Operating Budget; 1. Court of Justice; b. Local Facilities Fund; (3) Fayette County Courthouses, at page 1115, is amended to read as follows:

(3) **Fayette County Courthouses:** Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for improvements to ***14*** client interview areas in the Fayette County Courthouses.

Section 46. Whereas the vetoed provisions are imperative to the operation of the government of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 244, AN ACT relating to providers of hospital services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 142.303 is amended to read as follows:

(1) A tax is hereby imposed at a rate of two and one-half percent (2.5%) on gross revenues received by all providers on or after July 15, 1994, for the provision of hospital services. The tax imposed by this section shall not apply to gross revenues received for dispensing outpatient prescription drugs subject to tax under KRS 142.311.

(2) (a) Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, beginning in state fiscal year 2008-2009 and continuing annually thereafter, the tax imposed under subsection (1) of this section on providers of hospital services who paid taxes in state fiscal year 2005-2006 shall be assessed on gross revenues received by the provider during state fiscal year 2005-2006. Notwithstanding the provisions of KRS 142.301 to KRS 142.363, hospital provider taxes due in state fiscal year 2008 and continuing annually thereafter shall be paid in twelve (12) equal monthly installments, with each payment due no later than twenty (20) days after the last day of each calendar month. At least thirty (30) days prior to the beginning of the state fiscal year, the Department of Revenue shall send written notice to each provider of hospital services of the provider's total tax liability for the year, which shall be the amount the provider paid in taxes in state fiscal year 2005-2006. The provisions of this paragraph also shall apply if the hospital subsequently undergoes a change in ownership.

(b) If a hospital was not in operation during state fiscal year 2005-2006, the hospital shall be taxed pursuant to the provisions of subsection (1) of this section, provided that, upon request of the provider, the Department of Revenue may adjust the hospital's annual tax liability in accordance with the gross revenues of a comparable hospital.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 205.640 and any other provisions of the Kentucky Revised Statutes to the contrary, the amount of twenty six million two hundred and sixty-eight thousand dollars ($26,268,000) from hospital provider tax collections under KRS 142.303 during state fiscal year 2008-2009 and continuing annually thereafter shall be matched with federal funds and used solely to continue the enhancements implemented in state fiscal years 2006 and 2007 to inpatient payments to hospitals in the Commonwealth, including those hospitals paid under managed care arrangements. Any payments due pursuant to this section shall be made by July 30 of each state fiscal year.

The Committee Substitute to **HB 244** is as follows:

HB 244, AN ACT relating to providers of hospital services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 142.303 is amended to read as follows:

(1) A tax is hereby imposed at a rate of two and one-half percent (2.5%) on gross revenues received by all providers on or after July 15, 1994, for the provision of hospital services. The tax imposed by this section shall not apply to gross revenues received for dispensing outpatient prescription drugs subject to tax under KRS 142.311.

(2) (a) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, beginning in state fiscal year 2008-2009 and continuing annually thereafter, the tax imposed under subsection (1) of this section on providers of hospital services who paid taxes in state fiscal year 2005-2006 shall be assessed on gross revenues received by the provider during state fiscal year 2005-2006. Notwithstanding the provisions of KRS 142.301 to KRS 142.363, hospital provider taxes due in state fiscal year 2008 and continuing annually thereafter shall be paid in twelve (12) equal monthly installments, with each payment due no later than twenty (20) days after the last day of each calendar month. At least thirty (30) days prior to the beginning of the state fiscal year, the Department of Revenue shall send written notice to each provider of hospital services of the provider's total tax liability for the year, which shall be the amount the provider paid in taxes in state fiscal year 2005-2006. The provisions of this paragraph also shall apply if the hospital subsequently undergoes a change in ownership.

(b) If a hospital was not in operation during state fiscal year 2005-2006, the hospital shall be taxed pursuant to the provisions of subsection (1) of this section, provided that, upon request of the provider, the Department of Revenue may adjust the hospital's annual tax liability in accordance with the gross revenues of a comparable hospital.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 205.640 or any other provision of the Kentucky Revised Statutes to the contrary, the amount of twenty six million six hundred seventy-three thousand seven hundred sixty-four dollars ($26,673,764) from hospital provider tax collections under Section 1 of this Act during state fiscal year 2008-2009 and continuing annually thereafter, shall be matched with federal funds and used solely to continue the enhancements implemented in state fiscal years 2006 and 2007 to inpatient payments to hospitals in the Commonwealth, including those hospitals paid under managed care arrangements. Any payments due pursuant to this section shall be made by July 30 of each state fiscal year.

The Committee Amendment No. 1 Title to **HB 244** is as follows:

HB 244, Amend the title to read "AN ACT relating to taxation of hospital services.".

The Committee on Transportation reported **HB 89, HB 144, HB 179, HB 215, HB 370, HB 389,** with Committee Substitute attached thereto, and **HCR 18** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 89, AN ACT relating to transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.030 is amended to read as follows:

(1) Headlamps, when required on a vehicle, shall be illuminated:
  (a) During the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise;[~~and~~]
  (b) At such other times as atmospheric conditions ***including but not limited to fog, smoke, or precipitation*** render visibility as low as or lower than is ordinarily the case during that period***; and***
  (c) During periods when rain, mist, snow, or other precipitation necessitates the constant use of windshield wipers by motorists.
(2) Provisions as to distances that lights must be visible refer to visibility under ordinary atmospheric conditions.

HB 144, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.162 is amended to read as follows:

(1) As used in this section and in KRS 186.043, 186.164, 186.166, and 186.174:
  (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;
  (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;
  (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;
  (d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and
  (e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.
(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:
  (a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:
    1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).
    2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).
  (b) Former prisoners of war and survivors of Pearl Harbor:
    1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).
    2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).
  (c) Members of the Kentucky National Guard:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).
2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(d) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least ***fifty***[~~seventy~~] percent ***(50%)***[~~(70%)~~] service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: $3 ($0 SF/$3 CF/$0 EF).
2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(f) Disabled license plates:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(g) Historic vehicles:

1. Initial Fee for two plates: $53 ($50 SF/$3 CF/$0 EF).
2. Renewal Fee: Do not renew annually.

(h) Members of Congress:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(i) Volunteer firefighters:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(j) Emergency management:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(k) Fraternal Order of Police:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(l) Law Enforcement Memorial:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(m) Personalized plates:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $40 ($37 SF/$3 CF/$0 EF).

(n) Street rods:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(o) Nature plates:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund

established under KRS 146.570).

(p) Amateur radio:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(q) Kentucky General Assembly:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(r) Kentucky Court of Justice:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(s) Masons:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(t) Collegiate plates:

1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

(u) Independent Colleges:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(v) Child Victims:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the child victims' trust fund established under KRS 41.400).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(w) Kentucky Horse Council:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Horse Council).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the Kentucky Horse Council).

(x) Ducks Unlimited:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

(y) Spay neuter:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the animal control and care fund established under KRS 258.119).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the animal control and care fund established under KRS 258.119).

(z) Gold Star Mothers:

1. Initial Fee: $15 ($12 SF/$3 CF/ $0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/ $0 EF).

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar ($25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars ($20) and the county clerk receiving five dollars ($5).

(4) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a

motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).

HB 179, AN ACT relating to traffic fines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs. ***All fines collected pursuant to this subsection shall be deposited in the veterans' program trust fund established under KRS 40.460.***

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

HB 215, AN ACT relating to motor vehicle special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.164 is amended to read as follows:

(1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3). The twenty-five dollar ($25) initial fee and twelve dollar ($12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.

(4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2), 186.042(5), and 186.174(2). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(5) (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar ($3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar ($3) county clerk fee for use on any other vehicle of the same classification and category owned***, leased, or acquired*** by the person during the current licensing period. If the owner or lessee has the special plate reissued to ***a***[~~another~~] vehicle ***which has been previously registered in this state***, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).

(8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:

(a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;

(b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;

(c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;

(d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;

(e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;

(f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and

(g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.

(10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the group may appeal the denial to the next regularly scheduled session of the General Assembly for review of the denial and action on the group's request for a special license plate. The cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate Transportation Committees of the General Assembly of the denial and the reasons upon which the cabinet based the denial. The House and Senate chairpersons shall be required to present the information to his or her respective committee for consideration within the first ten (10) days of the next regularly scheduled session of the General Assembly, if requested to do so in writing by the group who was denied a special license plate. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.

(11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar ($25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.

(12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars ($10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.

(13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;

(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.

(14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.

(15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

(a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky

Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or emergency management organization; membership in the Gold Star Mothers of America; or ownership of an amateur radio operator license;

(b) The time schedule permissible for a group or organization to request a design change for the special license plate; and

(c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.

(16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

HB 370, AN ACT relating to temporary motor vehicle tags.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for ***sixty (60)***[~~thirty (30)~~] days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2), of which the clerk shall retain one dollar ($1). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.

(5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. A temporary tag authorized by this subsection shall be used for emergency or unusual purposes as determined by the clerk for the purpose of maintaining the owner's current registration. A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. A county clerk shall not issue a temporary tag authorized by this subsection unless the owner of the motor vehicle applying for the tag presents proof of motor vehicle insurance pursuant to KRS 304.39-080. On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of insurance shall be determined by the county clerk as provided in KRS 186A.042. A temporary tag issued pursuant to this subsection shall not be reissued by the county clerk for the same owner and same motor vehicle within one (1) year of issuance of a temporary tag.

HB 389, AN ACT relating to motor vehicle sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.990:

(1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

(a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

(d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto.

(3) The term "motor vehicle dealer" shall not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles.

(5) "New motor vehicle dealership facility" means an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing motor vehicles.

(6) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.

(7) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(8) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches, emergency vehicles, and an automotive recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation.

(9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles. Motorcycles shall not include mopeds as defined in this section.

(10) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

(11) "Motor vehicle auction dealer" means any person primarily engaged in the business of offering, negotiating, or attempting to negotiate a sale, purchase, or exchange of a motor vehicle through auction.

(12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, that is self propelled, but shall not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

(13) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer.

(14) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than

thirty (30) miles per hour.

(15) "Commission" means the Motor Vehicle Commission.

(16) "Commissioner" means the commissioner of the department.

(17) "Department" means the Department of Vehicle Regulation.

(18) "Licensor" means the commission.

(19) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances.

(20) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity.

(21) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product.

(22) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b).

(23) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(24) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(25) "Sale" means the issuance, transfer, agreement for transfer, exchange, lease, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise.

(26) "Automotive mobility dealer" means any motor vehicle dealer who:

(a) Exclusively engages in the business of selling, offering to sell, or soliciting or advertising the sale of adapted vehicles;

(b) Possesses adapted vehicles exclusively for the purpose of resale, either on his or her own account or on behalf of another, as his or her primary business or incidental thereto; or

(c) Engages in the business of selling, installing, or servicing; offering to sell, install, or service; or soliciting or advertising the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a motor vehicle by a disabled or aging person.

(27) "Adapted vehicle" means a new or used motor vehicle especially designed or modified for use by aging or disabled persons.

(28) "Mobility equipment" means equipment specifically designed to facilitate the use of a motor vehicle by an aging or disabled person.

SECTION 2. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Any person, prior to engaging or continuing in the business of an automotive mobility dealer after the effective date of this Act, shall obtain an automotive mobility dealer license from the commission.

(2) (a) An automotive mobility dealer shall be licensed and regulated by the commission under the provisions of this chapter.

(b) A license fee of one hundred dollars ($100) shall be charged for issuance and for renewal of the license of an automotive mobility dealer.

(c) The commission shall, by administrative regulations promulgated under KRS Chapter 13A, establish requirements for initial application for and renewal of a license to be an automotive mobility dealer. The commission's regulations establishing requirements for automotive mobility dealers shall include provisions for automotive mobility dealers to meet reasonable and appropriate quality assurance requirements. These requirements may include:

1. Appropriate training by automotive mobility dealers regarding adapted vehicle usage;

2. Driver evaluation by automotive mobility dealers; and

3. A requirement that automotive mobility dealers obtain and maintain insurance in an amount to be

established by the commission.

The commission shall have the power to promulgate any other regulations that are necessary to implement this section.

(d) The commission shall immediately suspend the license of an automotive mobility dealer if it determines that the dealer has sold or modified a vehicle that does not comply with this section or any administrative regulations promulgated thereunder. A dealer whose license is suspended under this paragraph shall be permitted to appeal the suspension in accordance with KRS Chapter 13B.

(3) A licensed automotive mobility dealer shall have the right to display, inventory, advertise, and offer for sale any adapted vehicle.

The Committee Substitute to **HB 389** is as follows:

HB 389, AN ACT relating to motor vehicle sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.990:

(1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

(a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

(d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto.

(3) The term "motor vehicle dealer" shall not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles.

(5) "New motor vehicle dealership facility" means an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing motor vehicles.

(6) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.

(7) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual

arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(8) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches, emergency vehicles, and an automotive recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation.

(9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles. Motorcycles shall not include mopeds as defined in this section.

(10) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

(11) "Motor vehicle auction dealer" means any person primarily engaged in the business of offering, negotiating, or attempting to negotiate a sale, purchase, or exchange of a motor vehicle through auction.

(12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, that is self propelled, but shall not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

(13) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer.

(14) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(15) "Commission" means the Motor Vehicle Commission.

(16) "Commissioner" means the commissioner of the department.

(17) "Department" means the Department of Vehicle Regulation.

(18) "Licensor" means the commission.

(19) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances.

(20) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity.

(21) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product.

(22) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b).

(23) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(24) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(25) "Sale" means the issuance, transfer, agreement for transfer, exchange, lease, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise.

(26) "Automotive mobility dealer" means any motor vehicle dealer who:

(a) Exclusively engages in the business of selling, offering to sell, or soliciting or advertising the sale of adapted vehicles;

(b) Possesses adapted vehicles exclusively for the purpose of resale, either on his or her own account or on behalf

of another, as his or her primary business or incidental thereto; or

(c) Engages in the business of selling, installing, or servicing; offering to sell, install, or service; or soliciting or advertising the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a motor vehicle by a disabled or aging person.

(27) "Adapted vehicle" means a new or used motor vehicle especially designed or modified for use by aging or disabled persons.

(28) "Mobility equipment" means equipment specifically designed to facilitate the use of a motor vehicle by an aging or disabled person.

SECTION 2. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Any person, prior to engaging or continuing in the business of an automotive mobility dealer after the effective date of this Act, shall obtain an automotive mobility dealer license from the commission.

(2) (a) An automotive mobility dealer shall be licensed and regulated by the commission under the provisions of this chapter.

(b) The commission shall, by administrative regulations promulgated under KRS Chapter 13A, establish requirements for initial application for and renewal of a license to be an automotive mobility dealer. The commission's regulations establishing requirements for automotive mobility dealers shall include provisions for automotive mobility dealers to meet reasonable and appropriate quality assurance requirements. These requirements may include:

1. Appropriate training by automotive mobility dealers regarding adapted vehicle usage;

2. Driver evaluation by automotive mobility dealers; and

3. A requirement that automotive mobility dealers obtain and maintain insurance in an amount to be established by the commission.

The commission shall have the power to promulgate any other regulations that are necessary to implement this section.

(c) The commission shall immediately suspend the license of an automotive mobility dealer if it determines that the dealer has sold or modified a vehicle that does not comply with this section or any administrative regulations promulgated thereunder. A dealer whose license is suspended under this paragraph shall be permitted to appeal the suspension in accordance with KRS Chapter 13B.

(3) A licensed automotive mobility dealer shall have the right to display, inventory, advertise, and offer for sale any adapted vehicle.

Section 3. KRS 190.030 is amended to read as follows:

(1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer, or a ***salesperson***[~~salesman~~] of motor vehicles shall not engage in business in this state at any location without a license issued for that location as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle ***salesperson***[~~salesman~~], he shall secure a motor vehicle ***salesperson's***[~~salesman's~~] license in addition to a license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.

(2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.

(6) The license fee for a calendar year, or part thereof, shall be as follows:

(a) For new motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof, plus one hundred dollars ($100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) For used motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(c) For motor vehicle leasing dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(d) For restricted motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(e) For motorcycle dealers, one hundred dollars ($100) for each office, branch, or agent thereof.

(f) For motor vehicle manufacturers, one hundred dollars ($100); and for each factory branch in this state, one hundred dollars ($100).

(g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.

(h) For motor vehicle ***salespersons, twenty dollars ($20), to be paid by the licensed dealer for every salesperson the dealer employs***[~~salesmen, ten dollars ($10)~~].

(i) For factory representatives, or distributor branch representatives, one hundred dollars ($100).

(j) For automotive mobility dealers, one hundred dollars ($100).

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed, the licensor shall endorse the change of location on the license. A licensee shall not be charged a fee for changing locations. A change of location shall require a new application. A licensee may conduct a temporary sale or display if the temporary sale or display is permitted under an enabling ordinance enacted by the city, county, urban-county, or consolidated local government within whose boundaries the temporary sale or display is to be conducted. A temporary sale or display shall be advertised as temporary in nature and shall consist of a representative sampling of the inventory of each participating licensee.

(8) Every ***salesperson***[~~salesman~~], factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the ***salesperson***[~~salesman~~] shall immediately mail his license to the licensor who shall ***endorse***[~~indorse~~] the change on the license without charge.

(9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars ($15,000), conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

HCR 18, A CONCURRENT RESOLUTION encouraging the Kentucky Transportation Cabinet and the Kentucky Cabinet for Economic Development to promote and market the use of Amtrak rail passenger service and the communities which serve as Amtrak passenger stations.

WHEREAS, the Commonwealth of Kentucky is served by two Amtrak routes, the Cardinal route between Chicago and New York, and the City of New Orleans route from Chicago to New Orleans; and

WHEREAS, the Cardinal has three Amtrak stations in Kentucky, making routine stops in the communities of Maysville, South Shore/South Portsmouth, and Ashland; and the City of New Orleans is served by a station in Fulton; and

WHEREAS, these two Amtrak routes combine to serve approximately 20,000 passengers per year, generating approximately $1,000,000 in ticket sales; and

WHEREAS, Amtrak's Web site and literature provide information of interest to travelers on each station stop, specifically mentioning the spectacular scenery of the river route near Fulton, the quaint city of Maysville, and the rich railroad heritage of Russell; and

WHEREAS, the Commonwealth of Kentucky does little to promote its Amtrak ties or to lure patrons into the regions served by the four Kentucky stations;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Transportation Cabinet and the Kentucky Cabinet for Economic Development are encouraged to promote and market the use of Amtrak in their tourism guides and other publications to emphasize the opportunities for those who chose to utilize the Amtrak stations at Ashland, Fulton, Maysville, and South Shore/South Portsmouth.

Section 2. A copy of this Resolution shall be transmitted to the Governor of the Commonwealth of Kentucky, the secretary of the Kentucky Transportation Cabinet and the secretary for the Cabinet for Economic Development.

The Committee on Local Government reported **HB 107,** with Committee Substitute attached thereto, **HB 114, HB 115, HB 201, HB 240,** with Committee Substitute attached thereto, and **HB 273** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 107, AN ACT relating to incompatible offices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.080 is amended to read as follows:

(1) No person shall, at the same time, be a state officer, a deputy state officer, or a member of the General Assembly, and an officer of any county, city, consolidated local government, or other municipality, or an employee thereof.

(2) The offices of justice of the peace, county judge/executive, surveyor, sheriff, deputy sheriff, coroner, constable, jailer, and clerk or deputy clerk of a court, shall be incompatible, the one (1) with any of the others. The office of county judge/executive and county school superintendent are incompatible.

(3) No person shall, at the same time, fill a county office and a municipal office. Notwithstanding the fact that consolidated local governments have both municipal and county powers, persons who hold the office of mayor or legislative council member of a consolidated local government shall not thereby be deemed to hold both a county office and a municipal office. Officers of consolidated local governments shall not, at the same time, fill any other county or municipal office.

(4) No person shall, at the same time, fill two (2) municipal offices, either in the same or different municipalities.

(5) The following offices shall be incompatible with any other public office:

(a) Member of the Public Service Commission of Kentucky;
(b) Member of the Workers' Compensation Board;
(c) Commissioner of the fiscal court in counties containing a city of the first class;
(d) County indexer;
(e) Member of the legislative body of cities of the first class;
(f) Mayor and member of the legislative council of a consolidated local government;
(g) Mayor and member of the legislative body in cities of the second class; and
(h) Mayor and member of council in cities of the fourth class.

(6) No office in the Kentucky active militia shall be incompatible with any civil office in the Commonwealth, either state, county, district, or city.

(7) Service as a volunteer firefighter in a volunteer fire department district or fire protection district formed pursuant to KRS Chapter 65, 75, or 273 shall not be incompatible with any civil office in the Commonwealth, whether state, county, district, or city, except as provided in subsection (8) of this section.

(8) A person holding any civil office in the Commonwealth, whether state, county, district, or city, shall not serve on the governing board of a volunteer fire department district or fire protection district and shall not serve as the chief executive authority of any volunteer fire department district or fire protection district.

The Committee Substitute to **HB 107** is as follows:

HB 107, AN ACT relating to incompatible offices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.080 is amended to read as follows:

(1) No person shall, at the same time, be a state officer, a deputy state officer, or a member of the General Assembly, and an officer of any county, city, consolidated local government, or other municipality, or an employee thereof.

(2) The offices of justice of the peace, county judge/executive, surveyor, sheriff, deputy sheriff, coroner, constable, jailer, and clerk or deputy clerk of a court, shall be incompatible, the one (1) with any of the others. The office of county judge/executive and county school superintendent are incompatible.

(3) No person shall, at the same time, fill a county office and a municipal office. Notwithstanding the fact that consolidated local governments have both municipal and county powers, persons who hold the office of mayor or legislative council member of a consolidated local government shall not thereby be deemed to hold both a county office and a municipal office. Officers of consolidated local governments shall not, at the same time, fill any other county or municipal office.

(4) No person shall, at the same time, fill two (2) municipal offices, either in the same or different municipalities.

(5) The following offices shall be incompatible with any other public office:
- (a) Member of the Public Service Commission of Kentucky;
- (b) Member of the Workers' Compensation Board;
- (c) Commissioner of the fiscal court in counties containing a city of the first class;
- (d) County indexer;
- (e) Member of the legislative body of cities of the first class;
- (f) Mayor and member of the legislative council of a consolidated local government;
- (g) Mayor and member of the legislative body in cities of the second class; and
- (h) Mayor and member of council in cities of the fourth class.

(6) No office in the Kentucky active militia shall be incompatible with any civil office in the Commonwealth, either state, county, district, or city.

(7) Service as a volunteer firefighter in a volunteer fire department district or fire protection district formed pursuant to KRS Chapter 65, 75, 95, or 273 shall not be incompatible with any civil office in the Commonwealth, whether state, county, district, or city.

HB 114, AN ACT relating to jail canteen accounts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.135 is amended to read as follows:

(1) The jailer may maintain a canteen for the benefit of prisoners lodged in the jail and may assign such jail employees and prisoners to operate the canteen as are necessary for efficient operation.

(2) All profits from the canteen shall be used for the benefit and to enhance the well-being of the prisoners. The jailer shall keep books of accounts of all receipts and disbursements from the canteen and shall annually report to the county treasurer on the canteen account.

(3) Allowable expenditures from a canteen account shall include but not be limited to recreational, vocational, and medical purposes.

(4) In order to ensure adequate, ongoing funding of jail canteen accounts, beginning July 1, 2007, and ***on the first day of each fiscal***[~~ each~~] year thereafter, ***the jail canteen account balance shall at least equal the following amounts***[~~funds shall be transferred by the fiscal court into the jail canteen account~~] based on the average daily inmate population of the jail***:***

(a) 300 prisoners or more $6,000

(b) 200 to 299 prisoners $4,000

(c) 100 to 199 prisoners $2,000

(d) 99 or fewer prisoners .... $1,000.

(5) For purposes of calculating the amount to be transferred to the jail canteen account, the average daily number of inmates shall be equal to the average daily inmate population of the jail in the immediately preceding fiscal year.[~~ The amount of funds to be transferred shall be as follows:~~

~~(a) 300 prisoners or more .... $6,000~~

~~(b) 200 to 299 prisoners .... $4,000~~

~~(c) 100 to 199 prisoners .... $2,000~~

~~(d) 99 or fewer prisoners .... $1,000~~]

HB 115, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 97.425 is amended to read as follows:

The term "park property" as used in KRS ***97.425***[~~97.405~~] to 97.485 shall be liberally construed, and includes all parks, squares and areas of land within the management of the city; all buildings, structures, improvements, seats, benches, fountains, trees, plants, herbage, flowers and other things thereon and the inclosures of same; all shade trees on street or thoroughfares, resting places, watering stations, playgrounds necessary and incidental to such public parks and property, parade grounds and the like; all connecting parkways and roads or drives between parks, all avenues, roads, ways, drives, walks, with all trees, shrubbery, vines, flowers and ornaments of any description; all birds, animals or curiosities or objects of interest or instruction placed in or on any such inclosures, ways, parkways, roads or places; all maintenance and construction equipment, recreation supplies, and facilities, and any interest or right which the city is able to exercise.

Section 2. KRS 97.455 is amended to read as follows:

There shall be established in each city of the second class electing to operate under KRS *97.425*[~~97.405~~] to 97.485 a board to be known as the "Board of Park Commissioners." The board shall consist of not less than five (5) nor more than seven (7) members as determined by the legislative body of the city and shall be appointed by the mayor with the approval of a majority of the legislative body for terms of four (4) years, except that the members first appointed shall be so appointed that the terms of not more than two (2) members shall expire in the same year. Any member of the board may be removed by a majority vote of the members of the city legislative body.

Section 3. KRS 97.465 is amended to read as follows:

The board of park commissioners shall be an advisory board only, it being the intention of KRS *97.425*[~~97.405~~] to 97.485 to vest all powers relating to parks, playgrounds and recreation in the city, subject to the provisions of KRS 97.020. The board of park commissioners, after their appointment, shall convene and elect a president of the board and a secretary. It shall establish rules, not inconsistent with the provisions of KRS 97.405 to 97.485, and shall fix the time and place for the holding of its meetings. The board shall advise the legislative body of the city on appropriate park and recreational programs and projects, and shall promote the full use of all park facilities in the interest of the public.

Section 4. KRS 97.485 is amended to read as follows:

Nothing in KRS *97.425*[~~97.405~~] to 97.485 shall be construed to conflict with the provisions of KRS 97.020.

Section 5. The following KRS section is repealed:

97.405 Powers and duties of boards of park commissioners vested in cities of second class.

HB 201, AN ACT relating to fire department merit boards in a consolidated local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act, unless the context otherwise requires:

(1) "Board" means a consolidated local government fire department merit board created pursuant to Sections 1 to 13 of this Act;

(2) "Chief" means a chief of a consolidated local government fire department affected by Sections 1 to 13 of this Act;

(3) "Assistant chief" means the next in command to the chief of the consolidated local government fire department affected by Sections 1 to 13 of this Act;

(4) "Secretary" means the executive secretary employed by the consolidated local government fire department merit board created as provided by Sections 1 to 13 of this Act; and

(5) "Member" means any employee of the consolidated local government fire department affected by Sections 1 to 13 of this Act in a position previously under the jurisdiction of the civil service system created by KRS Chapter 90.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) A consolidated local government shall, by ordinance, create a consolidated local government fire department merit system and, in the same ordinance, shall establish a consolidated local government fire department merit board. The board shall classify and examine applicants seeking employment as members of the fire department of the consolidated local government, excluding applicants for the positions of chief and assistant chief. The board, except when prohibited, shall promulgate rules and regulations not inconsistent with Sections 1 to 13 of this Act governing the classification, qualification, examination, appointment, probation, promotion, demotion, suspension, and other disciplinary action within the consolidated local government fire department of all members affected and covered by Sections 1 to 13 of this Act, and shall hold hearings and impose, if necessary, penalties upon the personnel affected by Sections 1 to 13 of this Act.

(2) The legislative council of the consolidated local government shall annually appropriate funds for the reasonable and necessary expenses of the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The mayor, subject to the approval of the legislative council of the consolidated local government, shall appoint five (5) persons, who shall constitute the consolidated local government fire department merit board. The members of the board shall serve without compensation. Each board appointee shall be at least thirty (30) years of age, a resident of the consolidated local government, and not related by either blood or marriage to either the mayor or any member of the legislative council of the consolidated local government. The first members of the board shall be appointed within thirty (30) days of the effective date of the ordinance creating a consolidated local government fire department merit system and merit board. One (1) member of the board shall be appointed for a term of one (1) year, one (1) member for a term of two (2) years, two (2) members for a term of three (3) years, and one (1) member for a term of four (4) years. Thereafter, all appointments shall be for four (4) years, except that an appointment to fill a vacancy on the board shall be made only for the unexpired term of the vacated position. Any board member may be removed by resolution of the legislative council of the consolidated local government for neglect, incapacity, misfeasance, or malfeasance on the part of a board member. No appointed board member shall hold any other public office, elective or appointive, during

his or her term as a member of the board, and shall not receive any money, gift, or consideration of any type from any person, directly or indirectly, for or on account of any recommendation, proposal, or suggestion bearing upon the business of the board or the consolidated local government fire department. Not more than three (3) members shall be members of the same political party.

(2) Each appointee, before entering upon the discharge of his or her duties, shall qualify by subscribing, taking, and filing an oath of office as required by law.

(3) The members of the consolidated local government fire department shall elect for a two (2) year term, two (2) members of the consolidated local government fire department with a minimum of five (5) or more years with service, with one (1) of the two (2) members being picked from a list of three (3) names submitted by the president of the collective bargaining unit of the consolidated local government fire department, and who shall serve as members of the board for the purpose of deciding discipline cases only, and who may vote in these cases. In case of a vacancy in a position held by a member, a new election shall be held within sixty (60) days of the date the vacancy occurs and the person elected shall fill the remainder of the original unexpired term.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The board shall meet within thirty (30) days of the creation of the board and the members shall select from among themselves a chairman and vice chairman and adopt such rules, regulations, and by-laws not inconsistent with Sections 1 to 13 of this Act for the necessary operation of the board. In all nondisciplinary matters requiring a vote, a majority of the board members present and voting shall determine any questions, provided that at least three (3) board members are present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board shall be present to constitute a quorum, one (1) of which shall be a fire department member as described in subsection (3) of Section 3 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The board shall meet at least once every two (2) calendar months and minutes of each meeting shall be kept.

(2) The board, with the approval of the mayor, shall employ a secretary who shall also conduct examinations, prepare eligible lists, keep all records of the board's business, keep and maintain all minutes of all board meetings, and perform such other duties in connection with the business of the board as may be required. The secretary may be employed on either a part-time or full-time basis, and the secretary shall receive compensation as may be recommended by the board and approved by the legislative council. All orders and minutes of the board shall be signed by the chairman who shall be elected by the board members, and the minutes shall be countersigned by the secretary.

(3) All records and meetings of the board shall comply with KRS 61.805 to 61.850 and 61.870 to 61.884.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Within thirty (30) days after the creation of a merit board under Sections 1 to 13 of this Act, the mayor shall certify to the board the name, rank or position, rate of pay, and the seniority of every member on the fire department as of the effective date of the ordinance creating the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) All members of whatever rank and title of a consolidated local government fire department shall be covered by the provisions of this section, except probationary members. All members of a consolidated local government fire department on active duty or service as of the effective date of an ordinance creating a consolidated local government fire merit system and board shall be deemed fit and qualified to continue their respective duties of employment on or for the consolidated local government fire department without examination or further qualification.

(2) All personnel covered by the provisions of this section, except probationary members, shall be deemed to be permanent employees subject to their ability to satisfactorily perform their respective duties and further subject to their good behavior.

(3) A probationary member shall not be included in the merit system until that member has satisfactorily completed his or her initial probationary period, which shall be one (1) year from his or her sworn date. The one (1) year probationary period may be extended for up to six (6) months upon showing of just cause by the chief and approved by the board.

(4) Members covered by Section 2 of this Act and serving promotional probationary periods shall not be deemed excluded from the merit system during the promotional probationary periods.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Sections 2, 3, 4, 5, and 10 of this Act shall not apply to the chief, assistant chief, and any members previously exempt from the civil service system. These members shall be appointed by the mayor and shall not be considered covered under the employment protections of the merit board, except as provided in subsection (2) of this section.

(2) Any member originally covered by Sections 2, 3, 4 , and 5 of this Act who accepts an appointment and qualifies as chief, assistant chief, or other member previously exempt from the civil service system shall be deemed to have received a leave of absence from the classified service for and during his or her service in these respective positions. If any chief, assistant chief, or member ceases to serve in that capacity, he or she shall be restored to the same classification and rank which he or she held prior to the appointment without loss of seniority in grade. Any person not covered by

Sections 2, 3, 4, and 5 of this Act when appointed to the position of chief, assistant chief, or other position previously exempt from the civil service system shall not be deemed to be part of the classified service and shall not be placed in any classification or rank in the classified service when he or she ceases to serve in that position, unless he or she goes through the normal qualification and classification procedures required by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) No member, while on duty or in uniform, covered by Sections 1 to 13 of this Act shall directly or indirectly solicit or receive or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.

(2) No person shall use or promise to use his or her personal influence or official authority to secure any appointment or promotion to any position of employment covered by Sections 1 to 13 of this Act, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by Sections 1 to 13 of this Act shall sign or execute or promise to sign or execute a resignation dated or undated in advance of his or her appointment or promotion. No member covered by Sections 1 to 13 of this Act shall be suspended, laid off, demoted, promoted, disciplined, or threatened, or in any way changed in rank, duty, or compensation, for withholding or neglecting to pay or make any contribution of any sort, either in money, goods, services, or anything of value for any political purpose whatsoever.

(3) No examination question on any examination given by the board shall relate to any political or religious opinion, belief, affiliation, or service and no appointment, promotion, demotion, suspension, fine, or removal shall be brought about, affected, or influenced by these opinions, beliefs, affiliations, or services.

(4) No member covered by Sections 1 to 13 of this Act shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) Nothing contained in Sections 1 to 13 of this Act shall be so construed as to abridge the rights of any member with respect to his or her personal opinions, beliefs, and right to vote.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Every consolidated local government fire department merit system board created shall make, promulgate, and, when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the members covered by Sections 2, 3, 4, and 5 of this Act. No rule or regulation made, promulgated, or amended by any consolidated local government fire department merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the chief, and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government fire department is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.

(2) The rules, in addition to other matters, shall specifically provide for and cover the following:

(a) Physical, mental, educational, citizenship, and age requirements for new members;

(b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;

(c) A requirement that members have three (3) years of service before being eligible for promotion;

(d) Provision for open, competitive, written, oral, and other mental and physical examinations to determine the relative fitness of all candidates for original appointment and for promotion;

(e) A requirement of public notice of all examinations to be given by the merit board;

(f) Organization and meetings of the board; and

(g) Procedure and conduct of public hearings.

(3) The board, with the approval of the mayor, shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written or other examinations required by the board.

(4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief, who shall supply the board with medical records of the disability.

(5) At least ninety (90) days notice shall be given before a promotional examination is conducted, except for clerical positions.

(6) Promotional tests shall be graded, as determined by the board, to include written, oral, and other examination scores. In addition, seniority in grade, not to exceed ten percent (10%), shall be awarded for each year of service after five (5) full years of service. The results of the written, oral, and other examinations shall be combined with seniority to determine the applicant's final evaluated rating.

(7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination. An individual's results and ratings are subject to review by the individual candidate, but are otherwise confidential.

(8) The chief examiner shall compile the results of all examinations. Upon completion of grading of examinations, candidates shall be informed by mail of the final evaluated rating attained and their individual ranking on the eligibility list. An applicant may, by appointment, discuss his or her examination results within the offices of the chief examiner during business hours at any time when such review will not interfere with the work of the board. A review must be requested within ten (10) calendar days following the establishment of the eligibility list. The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge.

(9) In filling promotional vacancies, the chief shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate with the higher evaluated rating who has been certified for promotion four (4) times. If the board determines that the candidate's nonpromotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

In all cases provided for in Section 10 of this Act, the action of the chief shall be final, except in the following cases:

(1) Every action in the nature of a dismissal, suspension, or demotion of a nonprobationary member made by the chief shall be subject to review by the board at the request of any member affected by Sections 1 to 13 of this Act.

(a) An appeal to the board of a dismissal, demotion, or forty (40) hours or more suspension of a nonprobationary member shall be heard by the full board. The board shall give notice and hold a public hearing.

(b) After the hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations.

(c) If a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board, and the board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the board shall not impose a penalty or punishment in excess of the action of the chief.

No member shall be removed or dismissed except as provided for in this section.

(2) An appeal to the board of a suspension of a nonprobationary member of less than forty (40) hours may be heard by the full board or any hearing officer secured by the board.

(a) If the appeal is heard by a hearing officer, all rules established by the board relating to appeals of disciplinary actions shall be applicable.

(b) After the hearing, the hearing officer shall complete and submit to the board, no later than thirty (30) days after the hearing, a written recommended order which shall include his findings of fact, conclusions of law, and recommended disposition of the appeal, which may include recommended penalties. The recommended order shall also include a statement advising the appealing member and chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing member and chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the board.

(c) The board shall consider the record, including the recommended order and any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the appeal of the matter, in whole or in part, to the hearing officer for further proceedings as appropriate.

(d) The final order of the board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.

(3) (a) Every action of a dismissal, suspension, or demotion made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets. The board shall be named respondent as the consolidated local government fire department merit board, and service shall be had on the chairman of the board. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action with appropriate judicial review of an administrative action or decision.

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the

appeal to the Court of Appeals shall be the same as in any civil action.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Procedural due process shall be afforded to any member brought before the board. The member shall be given a prompt hearing by the board, have an opportunity to confront his or her accusers, and have the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman to compel the attendance of witnesses, compel the production of documents and other documentary evidence, and, so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the board shall issue subpoenas to compel the attendance of witnesses or the production of documents and other documentary evidence for the benefit of the member or the chief, at the request of the member or the chief.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Upon the establishment of a consolidated local government fire department merit board, the existing or currently promulgated promotional lists of the civil service board of the consolidated local government shall remain in effect until their normal expiration date.

HB 240, AN ACT relating to solid waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.056 is amended to read as follows:

(1) Any county or waste management district, if authorized by all the counties that comprise the district, may levy an annual tax, not to exceed ten cents ($0.10) on each one hundred dollars ($100) of assessed valuation of real property within the area subject to taxation for county purposes. The proceeds of such tax shall be used for solid waste management expenses of the area and for redemption of any bonds issued.

(2) The county or waste management district, if authorized by the counties that comprise the district, may in lieu of the tax provided in subsection (1) of this section or in addition thereto finance the maintenance, operation, and capital acquisition costs of the area by fees to be collected from all persons receiving services from the area. The charges shall be fixed in amounts as can be reasonably expected to yield revenues not in excess of the cost of operation and maintenance of the system and for an adequate depreciation fund and amortization of capital acquisition costs.

(3) The service charges authorized by subsections (1) and (2) of this section may be collected by the area directly or the area may enter into an agreement with other utilities either public or private to collect such charges.

(4) Local governments, including cities, counties, urban-county governments, charter county governments, and consolidated local governments, may enact ordinances establishing procedures for the collection of solid waste taxes or service fees.

  (a) Ordinances may direct an official of the local government to file with the county clerk a lien on any motor vehicle owned by an individual, business enterprise, or other entity that has a delinquent bill for the taxes or service fee provided for in subsections (1) and (2) of this section.

  (b) Such a lien shall be superior to and have priority over all other liens on the vehicle, except liens for unpaid state, county, school board, and city taxes and liens created under KRS 82.635(1).

  (c) Nothing in this subsection shall otherwise affect the rights or obligations between the owner of the motor vehicle and those persons who claim a security interest therein.

The Committee Substitute to **HB 240** is as follows:

HB 240, AN ACT relating to solid waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.056 is amended to read as follows:

(1) Any county or waste management district, if authorized by all the counties that comprise the district, may levy an annual tax, not to exceed ten cents ($0.10) on each one hundred dollars ($100) of assessed valuation of real property within the area subject to taxation for county purposes. The proceeds of such tax shall be used for solid waste management expenses of the area and for redemption of any bonds issued.

(2) The county or waste management district, if authorized by the counties that comprise the district, may in lieu of the tax provided in subsection (1) of this section or in addition thereto finance the maintenance, operation, and capital acquisition costs of the area by fees to be collected from all persons receiving services from the area. The charges shall be fixed in amounts as can be reasonably expected to yield revenues not in excess of the cost of operation and maintenance of the system and for an adequate depreciation fund and amortization of capital acquisition costs.

(3) The service charges authorized by subsections (1) and (2) of this section may be collected by the area directly or the area may enter into an agreement with other utilities either public or private to collect such charges.

(4) Local governments, including cities, counties, urban-county governments, charter county governments, consolidated

local governments, and unified local governments may enact ordinances establishing procedures for the collection of solid waste taxes or service fees.

(a) Ordinances may direct an official of the local government to file with the county clerk a lien on any motor vehicle owned by an individual, business enterprise, or other entity that has a delinquent bill for the taxes or service fee provided for in subsections (1) and (2) of this section.

(b) A lien under this subsection shall be subordinate to all other liens on the vehicle, including liens for unpaid state, county, school board, and city taxes and liens created under KRS 82.635(1).

(c) Nothing in this subsection shall otherwise affect the rights or obligations between the owner of the motor vehicle and those persons who claim a security interest therein.

HB 273, AN ACT relating to county law libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 172.100 is amended to read as follows:

(1) A county law library shall be established in each county seat and the fiscal court of each county shall designate sufficient room in the courthouse,[~~ or~~] in a building of good construction adjacent to the courthouse***, in the local public library, or in a building where sessions of the District or Circuit Court are regularly held, or a combination of the foregoing,*** where such library shall be located and where the books ***and materials*** of the library may be safely kept.

(2) The books of the county law library shall consist of all volumes belonging to the state heretofore sent to the various county officials directed by law to receive such books, and all volumes hereafter sent to such library by the state, and all books now owned or hereafter acquired by the county for the library. The counties may ***provide on-line legal resources, and may*** acquire books, maps, or other articles for the library by purchase, gift or devise.

Section 2. KRS 172.200 is amended to read as follows:

(1) Upon the adoption of this optional plan, in counties other than those containing a city of the first class or consolidated local government, the Circuit Judge shall appoint one (1) member of the county's bar, and the members of the county's bar shall, by majority vote, elect another of their number, which two (2) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library." In counties containing a city of the first class or consolidated local government, the Chief Circuit Judge shall appoint one (1) member of the county's bar; the members of the county's bar shall, by majority vote, elect another of their number; the fiscal court or consolidated local government pursuant to the provisions of KRS 67C.139 shall appoint one (1) member, and one (1) member shall be appointed by the Commonwealth's attorney, which four (4) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library" or in a county containing a consolidated local government, "Trustees, .../..........County Law Library," which shall be a combination of the names of the largest city in existence on the date of the approval of the consolidated local government and the county.

(2) The trustees shall serve for a term of two (2) years or until their successors are elected or qualified.

(3) The trustees shall be in charge of the county law library, and they shall make purchases of the various state and federal case reports, textbooks, legal encyclopedia, and all other books usually incident to or customarily found in law libraries, or necessary to the protection of the rights of litigants, and they shall cause same to be properly arranged in the county law library, directing the ex officio librarian in the exercise of his duties. ***The trustees may also provide on-line legal resources for the use of library patrons.***

(4) The trustees shall exercise their absolute discretion in the purchase of books, pamphlets, periodicals, and other materials, and in the appointment and compensation of personnel to assist the ex officio librarian in the handling of materials and in the maintenance of the library, but the trustees shall not contract for any such purchases and appointments so as to create an indebtedness greater than the anticipated revenue for the following eighteen (18) months, the anticipated revenue being based upon the preceding eighteen (18) months' revenue, and any indebtedness of the county law library fund shall not be considered in any way an indebtedness of the county, but shall be an indebtedness of the county law library fund only, and all creditors must look only to the county law library fund for satisfaction of their indebtedness.

(5) The trustees shall designate one (1) of their number as treasurer and he shall be accountable for the receipt, deposit, and disbursement of all sums received for the operation of the county law library. He shall be bonded by a corporate bond, the cost of which shall be paid out of the receipts of the library fund. He shall deposit all sums received by him as treasurer in a regular banking depository, and he shall pay for all purchases made by the trustees by check or draft, keeping a true and accurate account of all sums received and expended by him. He shall annually file a written report with the Circuit Judge of the county showing all sums received by him, together with the court from which they were received, and an itemized statement of all expenditures made by him. The treasurer shall turn all funds over to his successor, together with a full inventory of the county law library, and together with a full and complete itemized statement of all outstanding accounts.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 246**

Licensing and Occupations: **HB 310, 391, 180, 156, 259, 65, 86**

Orders of the Day

HB 202 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 202** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 13, 2007, roll call on **HB 202** - Appendix.)

HB 202 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 202** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 99, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of the Committee Substitute to **HB 99**. Agreed.

Representative Pullin moved that **HB 99**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See February 13, 2007, roll call on **HB 99** - Appendix.)

HB 99, by way of Committee Substitute, was passed.

Representative Pullin moved the adoption of Committee Amendment No. 1 Title to **HB 99**. Agreed.

Representative Pullin moved that the vote by which **HB 99**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 137, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 137**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 137**. Agreed.

Representative Yonts moved that **HB 137**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 13, 2007, roll call on **HB 137** - Appendix.)

HB 137, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 137**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 78, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Greer moved the adoption of Floor Amendment No. 1 to **HB 78**. Agreed.

Representative Cherry moved that **HB 78**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 13, 2007, roll call on **HB 78** - Appendix.)

HB 78, as amended, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 78**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **HB 399, HCR 127, HB 108, 261, 319,** and **239**. Agreed.

Representative Adkins moved that **HB 4** be reassigned to the Committee on State Government. Agreed.

Representative Adkins moved that **HB 64** be taken from the Committee on Rules and placed in the Orders of the Day. Agreed.

Representative Embry moved that **HB 42** be withdrawn. Agreed.

Representative Jenkins moved the adoption of the following **Legislative Citation No. 18**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of Leadership Louisville, a signature program fostered by the Leadership Louisville Center, a nonprofit, member-oriented resource whose mission to develop a diverse group of leaders to serve as catalysts for a stronger community is carried out through a wide range of enlightening programs and events. Inasmuch as such leadership groups provide a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Joni Jenkins in commending the participants of Leadership Louisville and graciously welcoming them to the House Chambers during this day's activities of the 2007 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this thirteenth day of February, in the year two thousand and seven.

Legislative Citation No. 18 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 459, by Representative Collins: AN ACT relating to certificates of death.

HB 460, by Representatives Pullin and Montell: AN ACT relating to income tax credits for small businesses.

HB 461, by Representatives Rasche and Edmonds: AN ACT relating to retired teachers.

HB 462, by Representatives Simpson, Kerr, and Wuchner: AN ACT relating to economic development.

HB 463, by Representative Wayne: AN ACT relating to nursing homes.

HB 464, by Representative Crimm: AN ACT relating to the Secretary of State.

HB 465, by Representatives Simpson and Wilkey: AN ACT relating to the Court of Justice.

HB 466, by Representative Ballard: AN ACT relating to taxation.

HR 133, by Representative Hoffman: A RESOLUTION relating to Kentucky's youth generation and its grandparents' generation and urging collaborative community endeavors.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Seniors, Military Affairs and Public Safety: **HB 287**

State Government: **HB 8, 212, 220, 223, 227, 228, 283, 293, 295, 325, 356, 361, 386, 395, 400, 414, 418, HJR 118**

Health and Welfare: **HB 288, 362, 378, 337, 282**

Floor Amendments

Floor Amendment No. 1 to **HB 69**, by Representative Arnold:

HB 69, On page 3, line 1, delete "***temporarily***";

On page 4, between lines 16 and 17, insert the following:

"Section 2. KRS 154.26-080 is amended to read as follows:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and the retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including but not limited to written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing or coal mining and processing facility, permanently lay off its employees, and cease operations ***or not resume operations in the event that a facility has been closed***.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including but not limited to financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility ***or not resume operations in the event that a facility has been closed***; and set out alternatives that are available to the company.

(5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.

(6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the Education Cabinet, and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.

(7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), or subsection (11) of this section.

(8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility ***or not resume operations in the event that a facility has been closed*** absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.

(9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility ***or not resume operations in the event that a facility has been closed***.

(10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.

(11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons ***or not resume operations in the event that a facility has been closed***. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(13) After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost ***or the company unable to resume operations in the event that a facility has been closed***; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company." and

On page 4, line 17, renumber the section accordingly.

Floor Amendment No. 2 Title to **HCR 18**, by Representative Pullin:

HCR 18, By amending the title to read:

A CONCURRENT RESOLUTION encouraging the Kentucky Transportation Cabinet and the Kentucky Commerce Cabinet to promote and market the use of Amtrak rail passenger service and the communities which serve as Amtrak passenger stations.

Floor Amendment No. 1 Title to **HJR 77**, by Representative DeCesare:

HJR 77, Amend the title of HJR 77, on line one, after "the", by inserting the words "American economist".

Floor Amendment No. 1 to **HB 95**, by Representative DeCesare:

HB 95, On page 1, line 12 after "***August***" by inserting the following:

"***except in school districts that have adopted an alternative calendar or year-round calendar***"; and

On page 1, line 14 after "year-round" by inserting "***calendar, also known as an alternative calendar,***" and placing brackets around and striking through "school program basis"; and

After page 6, by inserting the following:

"Section 2. KRS 158.6453 is amended to read as follows:

(1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

(2) The assessment program shall include the following components:

(a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;

(b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;

(c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;

(d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and

(e) A technically sound longitudinal comparison of the assessment results for the same students.

(3) The provisions of subsection (2) of this section shall apply to elementary schools, and shall also apply to middle and high schools, except as provided in subsections (4) to (8) of this section.

(4) No later than the 2007-2008 school year, and each year thereafter, the following provisions shall apply to the assessment program for middle and high schools:

(a) The assessment program shall include:

1. A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);

2. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);

3. The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and

4. Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education;

(b) 1. A student whose scores on the high school readiness examination administered in grade eight (8) indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and

2. A student whose scores on the college readiness examination administered in grade ten (10) or the ACT

college admissions and placement examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes;

(c) The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student; and

(d) The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (2)(a) of this section.

(5) No later than the 2007-2008 school year, and each year thereafter, students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.

(a) The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education. The cost of additional WorkKeys assessments shall be the responsibility of the student.

(b) A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.

(c) A student meeting the WorkKeys threshold established by the Department of Workforce Investment shall be issued the appropriate Kentucky employability certificate.

(6) (a) The Kentucky Department of Education shall conduct periodic studies comparing the standards in reading, mathematics, and science for middle and high schools within the Kentucky core content for assessment and the concepts and content measured by the ACT and the high school and college readiness examinations under subsection (4)(a) of this section.

(b) If the department determines that reading, mathematics, and science assessments required under subsection (4)(a) of this section are shown to provide direct measures of content standards and concepts identified in the Kentucky core content for assessment, the Kentucky Board of Education shall seek the advice of the Office of Education Accountability, the School Curriculum, Assessment, and Accountability Council, and the National Technical Advisory Panel on Assessment and Accountability regarding reducing the number of questions on the Commonwealth Accountability Testing System.

(c) The Kentucky Department of Education shall continue to include open-response or multiple-choice items, or both, that assess student knowledge and skills in reading, mathematics, and science to the degree necessary for adequate coverage of the elements of the Kentucky core content for assessment not covered by the examinations.

(7) Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (4)(a)3. of this section shall consist of:

(a) Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or

(b) Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.

(8) The assessments under subsections (4) and (5) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."

(9) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:

(a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;

(b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and

(c) Minimize the time spent by teachers and students on assessment.

(10) ***The statewide testing window shall begin no earlier than May 1.*** Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.

(11) The Department of Education shall gather information to establish the validity of the assessment and accountability

program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

(12) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.

(13) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:

(a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:

1. Student academic achievement, including the results from each of the assessments administered under this section;

2. Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and

3. School learning environment, including measures of parental involvement;

(b) An individual student report to parents for each fifth-grade student summarizing the student's readiness in reading and mathematics based on the student's fourth-grade state assessment results. The school's fifth-grade staff shall develop a plan for accelerated learning for any student with identified deficiencies;

(c) An individual report for each student who takes a high school or college readiness examination administered under subsection (4)(a) of this section that:

1. Provides the student's test scores;

2. Provides a judgment regarding whether or not a student has met or failed to meet the expectations for each standard assessed; and

3. Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and

(d) A student's scores on the ACT examination or WorkKeys assessments administered under subsections (4)(a) and (5) of this section and the ACT examination under KRS 158.6459(5) shall be recorded on his or her official high school transcript.".

Floor Amendment No. 1 to **HCR 18**, by Representative Pullin:

HCR 18, On page 1, lines 1 and 2 after the second time the word "Kentucky" appears in line 1, by deleting the words "Cabinet for Economic Development" and inserting the words "Department of Tourism" in lieu thereof.

On page 2, line 2, before the word "Cabinet", by inserting the word "Commerce".

On page 2, line 2 after the word "Cabinet", by deleting the words "for Economic Development".

Floor Amendment No. 1 to **HB 89**, by Representative Vincent:

HB 89, On page 1, line 9, by deleting the word "***constant***".

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representatives Draud, Firkins, Yonts, and Webb

HB 6, Representative Bell

HB 7, Representative Edmonds

HB 16, Representative Meeks

HB 21, Representative Bell

HB 62, Representatives Graham and Rollins

HB 63, Representative Thompson

HB 70, Representative Baugh

HB 71, Representatives Glenn and Thompson

HB 75, Representatives Firkins, Miller, and Weston

HB 100, Representative Couch

HB 101, Representative Couch

HB 120, Representative Rand

HB 186, Representative Couch

HB 187, Representatives Graham and Hoffman

HB 197, Representatives Dedman, Couch, and L. Belcher

HB 210, Representative Embry

HB 226, Representative Crenshaw

HB 243, Representative Riggs

HB 244, Representative Yonts

HB 245, Representative Riggs

HB 246, Representative Gray

HB 270, Representative Rand

HB 290, Representative Henley

HB 318, Representatives Marzian, L. Belcher, Miller, and Clark

HB 337, Representative Crimm

HB 352, Representative L. Belcher

HB 354, Representatives Floyd and Denham

HB 362, Representative Tilley

HB 388, Representative Horlander

HB 392, Representative Draud

HB 416, Representative Clark

HB 435, Representative Osborne

HB 444, Representative Miller

HB 462, Representative Wuchner

HJR 15, Representative Pasley

HCR 18, Representative Vincent

The following members filed requests to have their names withdrawn as co-sponsors of Bills:

HB 226, Representative Henderson

HB 309, Representative Riner

Announcements

Committee on Licensing and Occupations, 8:00 a.m., Wednesday, February 14, 2007

Committee on Appropriations and Revenue, upon adjournment, Room 149

Budget Review Subcommittee on Economic Development, no meeting on Wednesday, February 14, 2007

Committee on Agriculture and Small Business, 8:00 a.m., Wednesday, February 14, 2007

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Wednesday, February 14, 2007.

The motion that the House adjourn until 2:00 a.m., Wednesday, February 14, 2007, was adopted by voice vote.

WEDNESDAY, FEBRUARY 14, 2007

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Kenny Pelphrey, Barnetts Creek United Baptist Church, Johnson County, Kentucky, who was the guest of Representative Collins.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of February 13, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Embry moved that he be recorded as voting "Yea" on **HB 202**. Agreed.

Representative Hoover moved that he be recorded as voting "Yea" on **HB 137**. Agreed.

Representative Graham moved that he be recorded as voting "Yea" on **HB 78**. Agreed.

Representative Weston moved that he be recorded as voting "Yea" on **HB 137**. Agreed.

Representative Upchurch moved that he be recorded as voting "Yea" on **HB 202**. Agreed.

Representative S. Lee moved that he be recorded as voting "Yea" on **HB 202**. Agreed.

Representative Thompson moved that he be recorded as voting "Yea" on **HB 63, 71, 102, HCR 12,** and **HJR 23**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **HB 78**. Agreed.

Representative Rollins moved that the rules be suspended to act on a Resolution. Agreed.

Representative Rollins moved the adoption of the following **HR 128**:

HR 128, A RESOLUTION adjourning the House of Representatives in honor of Ronnie Dunn, upon her election as International President of Optimist International.

WHEREAS, in 1988, Ronnie Dunn joined the Optimist Club of Frankfort, and became Club President within two years, and later became Lieutenant Governor, Governor-Elect, and Governor of the Kentucky-West Virginia Optimist Club. She and her husband, Wayne, are also members of the Frankfort-Capital City Optimist Club, and, in 2007, Ronnie Dunn had the honor of riding on the Optimist International float in the Rose Bowl Parade; and

WHEREAS, Ronnie Dunn holds a BS degree in Business Administration from the University of Louisville and a Masters Degree in Public Affairs from Kentucky State University. Later in her career, Mrs. Dunn was appointed as the first executive director of the Family Resource/Youth Services Centers, a result of the Kentucky Education Reform Act. These centers have acted as a bridge between schools and communities, using community resources to alleviate the barriers to learning faced by many of Kentucky's children; and

WHEREAS, Ronnie Dunn has held too many positions in Optimist International to enumerate, and she also served as 2005 Chair of the Franklin County United Way Campaign; was the 1998 recipient of the J.C. Penney Golden Rule Award for Franklin County; is past president of the University of Louisville's Capital Region Alumni Club; serves as a member of the Bluegrass Theatre Guild; and was founder of the Special Friends Mentoring Program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives join Ronnie Dunn's husband, Wayne, their two children, Gretchen Dunn Goodman and Jason Dunn, their seven grandsons, and the entire Commonwealth in expressing great pride in the accomplishments of Ronnie Dunn, the first woman elected International President of a large service organization.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Ronnie Dunn, public servant.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Gentleman from Woodford 56 for presentation to Ronnie Dunn.

There being no objection, **HR 128** was adopted.

Senate Message

Announcing passage of **SB 22, 58,** and **65.** (2:03 p.m.)

Representative Adkins moved that the rules be suspended to grant floor privileges to recipients of the 2006 Governor's Awards in the arts and to act upon Legislative Citations. Agreed.

Representative Adkins moved adoption of the following **Legislative Citation No. 21.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Recipients of the 2006 Governor's Awards in the Arts the foremost advocates of the arts in the Commonwealth of Kentucky. Upon the considered recommendations of the Kentucky Arts Council, the tireless efforts of these individuals, organizations and institutions to ensure the survival and success of the arts are this day recognized and celebrated as each has been presented with the Commonwealth's highest accolade in the arts by Governor Ernie Fletcher. Ardent tribute is paid to J. Alexander Speer, recipient of the Milner Award; Patricia Neal, recipient of the National Award; LaVon Van Williams, recipient of the Artist Award; Jewish Hospital & St. Mary's HealthCare, recipient of the Business Award; the Kentucky Book Fair, recipient of the Community Arts Award; the Russell Orchestra, recipient of the Education Award; Lewis and Donna Lamb, recipients of the Folk Heritage Award; Pike County Extension for Fine Arts, recipient of the Government Award; and Morehead State Public Radio, WMKY-FM and WOCS-FM, recipient of the Media Award. The members of this august body are delighted to join with Speaker Jody Richards in extending deepest gratitude to these esteemed honorees for having made phenomenal contributions to the arts in Kentucky and in offering them sincere congratulations upon receiving this well-deserved and most prestigious recognition. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 21 was adopted without objection.

Representative Osborne moved the adoption of the following **Legislative Citation No. 22.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors J. Alexander Speer Milner Award Recipient/2006 Governor's Awards in the Arts given to those individuals who have demonstrated outstanding commitment to the arts and their role in the Commonwealth's economy, community and culture. Upon the considered recommendation of the Kentucky Arts Council, J. Alexander Speer was presented with this most prestigious honor by Governor Ernie Fletcher for his substantive and visionary contributions to the internationally-acclaimed Actors Theatre of Louisville, where he served as Executive Director for forty years, and for his efforts as a driving force behind the regional professional theater movement and the establishment of the League of Resident Theatres. This esteemed honoree, a "great statesman of American Arts" and an esteemed community leader, is also praised for his contributions to the revitalization of Louisville Main Street and for his service as chairman of the Louisville Arts and Cultural Attractions Council and an executive committee member of the regional Cultural Blueprint for the Louisville metropolitan area. For inasmuch as his foresight, hard work and advocacy for the arts have, indeed, enhanced the quality of life for all Kentuckians, the members of this honorable body are delighted to join Representative David W. Osborne in paying tribute to Sandy Speer on this auspicious occasion. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 22 was adopted without objection.

Representative Siler moved the adoption of the following **Legislative Citation No. 23.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Patricia Neal National Award Recipient/2006 Governor's Awards in the Arts given to Kentuckians who have attained national acclaim for artistic achievement. Upon the considered recommendation of the Kentucky Arts Council, Patricia Neal, was presented with this prestigious honor by Governor Ernie Fletcher for having received national and international recognition as an award-winning actress of stage, television and screen. This celebrated native of Packard, in Whitely County, Kentucky, won an Oscar for her performance in the movie, Hud, in which she co-starred with actor Paul Newman. Additionally, throughout her stellar career, she was named the recipient of another Oscar nomination, a Tony Award and a Golden Globe and was a three-time Emmy Award nominee. The subject of a newly-released biography, Patricia Neal -- An Unquiet Life, by Stephen Michael Shearer and published by the University Press of Kentucky, Ms. Neal, who experienced three massive strokes at the height of her career and has not only made a remarkable recovery herself, but has put forth great effort on behalf of other stroke victims, currently devotes much of her time to the Patricia

Neal Rehabilitation Center in Knoxville, Tennessee. The members of this honorable body are delighted to join Representative Charles L. Siler in applauding Patricia Neal, a woman who shines forth as an inspiration to so many people, for her laudable professional accomplishments and tireless advocacy for the arts. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 23 was adopted without objection.

Representative Crenshaw moved the adoption of the following **Legislative Citation No. 24**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors LaVon Van Williams, Jr. Artist Award Recipient 2006 Governor's Awards in the Arts given to an individual for a lifetime of achievement in the arts. Upon the considered recommendation of the Kentucky Arts Council, this talented fifth-generation woodcarver and folk artist was presented with this prestigious honor by Governor Ernie Fletcher for his highly-acclaimed low-relief figurative sculptures and for his contributions as a teacher and mentor in artist residency programs throughout the state as well as for the gallery and university workshop he has conducted throughout his career. A former college and professional basketball player whose work has been exhibited at the Outsider Art Fair in New York, the National Black Fine Arts Exposition in Chicago, the Kentucky Folk Art Center in Morehead, and in Ohio at the National Afro-American Museum and Cultural Center, in Wilberforce, and the Keny Gallery in Columbus, has produced carvings that now reside in private collections nationwide. Inasmuch as LaVon Van Williams, Jr. has worked with boundless enthusiasm and the utmost dedication throughout his artistic career, the members of this honorable body are delighted to join with Representative Jesse Crenshaw in expressing sincere appreciation to him for the delightful and provocative work he has produced and the wealth of expertise he has shared with other artists throughout the Commonwealth. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 24 was adopted without objection.

Representative Wayne moved the adoption of the following **Legislative Citation No. 25**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Jewish Hospital & St. Mary's HealthCare Business Award Recipient/2006 Governor's Awards in the Arts given to a business located in Kentucky that has demonstrated outstanding support of the arts. Upon the considered recommendation of the Kentucky Arts Council, Jewish Hospital & St. Mary's HealthCare, located in Greater Louisville, was presented with this honor by Governor Ernie Fletcher for implementing their visionary understanding of the healing power of art by putting forth great effort to both acquire and exhibit visual arts in the public spaces of its healthcare facilities. Inasmuch as the Jewish Hospital and St. Mary's HealthCare network has, through its understanding, appreciation and acquisition of art, provided patients, family, friends and staff an environment that enhances healing, with their newest facility, Jewish Hospital Medical Center South in Shepherdsville, having collaborated with the Kentucky Museum of Art and Craft to acquire original artwork from artists who had drawn inspiration from Bernheim Forest in order to provide the calm and healing forces of both art and nature and Jewish Hospital Medical Center East having incorporated Kentucky glass art into its design in order to be a standard bearer for high-tech, patient-focused care, the members of this honorable body are delighted to join Representative Jim Wayne in commending Jewish Hospital & St. Mary's HealthCare for serving as a wonderful example of the benefits born from the synthesis of arts and business. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 25 was adopted without objection.

Representative Graham moved the adoption of the following **Legislative Citation No. 26**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Kentucky Book Fair Community Arts Award Recipient/2006 Governor's Awards in the Arts given to an organization that has played a lead role in the encouragement of the arts and made a substantial positive impact on the community. Upon the considered recommendation of the Kentucky Arts Council, the Kentucky Book Fair was presented with this honor by Governor Ernie Fletcher for having honored the writing profession with a public festival; provided a forum from which accomplished authors from the Commonwealth and the nation can meet the public and interact with their readers; and granted more than a quarter million dollars in funds raised through the sale of books to public and school libraries. This charitable non-profit organization founded in 1981, stages the Kentucky Book Fair annually in November at the Frankfort Convention Center and hosts more than 150 authors who are available to autograph copies of their most recent works for the thousands of patrons in attendance. The members of this honorable body are delighted to join with Representative Derrick W. Graham in expressing profound gratitude to all those hard-working and visionary citizens who have contributed to the phenomenal success of the Kentucky Book Fair, which has in turn served as a mighty force for literacy and the arts within this great Commonwealth. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 26 was adopted without objection.

Representative Pullin moved the adoption of the following **Legislative Citation No. 27**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Russell Orchestra Education Award Recipient/2006 Governor's Awards in the Arts given to an organization that has made significant contributions to the arts in education. Upon the considered recommendation of the Kentucky Arts Council, The Russell Orchestra was presented with this honor by Governor Ernie Fletcher for having developed a program that has invigorated and involved the students, schools and the community. Founded in 2001 and currently comprised of 300 participants that include primary, middle and high school students and faculty members from the Russell Independent Schools, this widely-recognized and award-winning orchestra has performed at community events and venues such as memorials, restaurants, businesses, churches, school functions and area nursing homes. The participants of this stellar orchestra have received master classes and performed at the Lincoln Center for the Performing Arts in New York City and have made a lifelong and most significant contribution to the arts in education. This honorable body is delighted to join Representative Tanya Pullin in applauding the Russell Orchestra, along with all who have contributed to its success, as an outstanding school arts program whose positive effects reverberate throughout the community and this Commonwealth. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 27 was adopted without objection.

Representative Napier moved the adoption of the following **Legislative Citation No. 28**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Lewis Lamb and Donna Lamb Folk Heritage Award Recipients 2006 Governor's Awards in the Arts given to individuals who have made an outstanding effort to perpetuate and promote Kentucky's unique artistic traditions. Upon the considered recommendation of the Kentucky Arts Council, this father/daughter team who hail from Lancaster, Kentucky, were presented with this prestigious honor by Governor Ernie Fletcher for their efforts to preserve and promote authentic old-time Appalachian traditional music. Well-known throughout the nation, Lewis Lamb, a master fiddler, humorist and wood carver, and Donna Lamb, a talented back-up guitarist, singer and clog-dancer and a talented musical instrument inlay artist, have recorded several albums, including, Dances from Appalachia, and have toured throughout the world with the Berea College Country Dancers, playing Appalachian dance music, a challenging and highly-respected musical genre. In their roles as educators, they have spread the seeds of interest in Kentucky's musical traditions by their generous efforts to share their knowledge with students, young and old. The members of this honorable body are delighted to join Representative Lonnie Napier in paying tribute to Lewis Lamb and Donna Lamb for their timeless contributions to Kentucky's arts and culture. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 28 was adopted without objection.

Representatives Combs and Hall moved the adoption of the following **Legislative Citation No. 29**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Pike County Extension for Fine Arts Government Award Recipient/2006 Governor's Awards in the Arts given to an entity that significantly supports the arts through government action. Upon the considered recommendation of the Kentucky Arts Council, the Pike County Extension for Fine Arts, the nation's first Cooperative Extension Service Program focusing on the fine arts, was presented with this prestigious honor by Governor Ernie Fletcher for having developed and implemented this innovative program designed to strengthen the arts in rural communities by addressing the quality of life through the arts. This collaborative effort by the University of Kentucky College of Agriculture and College of Fine Arts and the Pike County District Board of Cooperative Extension, successfully incorporates a vigorous arts marketing plan, a program to assist Pike County schools to include the arts throughout their curriculum, and a specific strategy for organizing and advancing the arts throughout Pike County. Inasmuch as the Pike County Extension for Fine Arts, coordinated by Pike County Extension Agent for Fine Arts, Stephanie Richards, who has maintained active partnerships and collaborations with the Pike County Artisan Center, Artists Collaborative Theatre, the Pikeville Medical Center, Pike County Homeless Shelter, and local media and area churches, has put forth great effort to ensure the success of this ground-breaking and life-enhancing endeavor, the members of this honorable body are pleased to join with Representative Leslie A. Combs and Representative W. Keith Hall in applauding the Pike County Extension for Fine Arts along with all those who have contributed to its visionary efforts to develop the next generation of Kentucky's artists, advocates and audiences. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 29 was adopted without objection.

Representative Adkins moved the adoption of the following **Legislative Citation No. 30**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Morehead State Public Radio WMKY-FM/WOCS-FM Media Award Recipient/2006 Governor's Awards in the Arts given to an organization or journalist that has shown an outstanding commitment to bringing the arts to the attention of the public. Upon the considered recommendation of the Kentucky Arts Council and presented with this prestigious honor by Governor Ernie Fletcher, Morehead State Public Radio, which broadcasts twenty-four hours a day from the campus of Morehead State University, was chosen for providing its listeners with high quality news, music and entertainment programming that is designed to preserve and promote the area's cultural heritage through the arts. Serving more than forty counties in Kentucky, Ohio and West Virginia, Morehead State Public Radio serves as the regional voice for National Public Radio News, Morning Edition, Car Talk, and All Things Considered, and features such local programming as Front Page, featuring regional authors, musicians, song writers, storytellers and feature stories about local artists and arts events; Americana Crossroads Live, a free concert series presenting local, national and internationally recognized musicians and entertainers; Americana Crossroads; A Time for Tales; Bluegrass Diversion; Pickin' Parlour; Bluegrass Sunday; Nothin' But the Blues, and Tunes and Tales. Inasmuch as Morehead State Public Radio network's stellar programming serves as a mainstay of this area of Kentucky's culture and thriving arts environment, the members of this honorable body are delighted to join with Representative Rocky Adkins in praising their vital commitment to the arts in this great Commonwealth. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 30 was adopted without objection.

Introduction of Bills and Resolutions

HB 467, by Representatives Napier, Moberly, Weston, Wilkey, Simpson, Ford, Stein, Pullin, S. Lee, Hoover, J. Lee, Dedman, Turner, Richards, Miller, Siler, Ballard, Rudy, Mobley, Graham, Higdon, DeWeese, Stewart, Couch, A. Smith, Palumbo, Comer, Firkins, Baugh, Vincent, and Henley: AN ACT relating to Governor William Owsley.

HB 468, by Representative Bell: AN ACT relating to economic development and declaring an emergency.

HB 469, by Representative Damron: AN ACT relating to firearms.

HB 470, by Representative Hoffman: AN ACT relating to methamphetamine contamination.

HB 471, by Representative L. Belcher: AN ACT relating to school facilities.

HB 472, by Representatives Miller, Wayne, Jenkins, Owens, Clark, Burch, Horlander, Weston, Riggs, Brinkman, Bratcher, Crimm, Marzian, Keene, Riner, Firkins, DeWeese, Osborne, and Meeks: AN ACT relating to nuisances.

HB 473, by Representative DeWeese: AN ACT relating to the practice of medicine.

HB 474, by Representative Marzian: AN ACT relating to a health facility patient's visitation rights.

HB 475, by Representatives Jenkins and Marzian: AN ACT relating to crimes and punishments.

HB 476, by Representative Nelson: AN ACT relating to elections, making an appropriation therefor, and declaring an emergency.

HB 477, by Representatives J. Lee and Moberly: AN ACT relating to the prevention of Medicaid fraud.

HR 134, by Representative Rollins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Edith Perlman.

HR 135, by Representatives Damron and C. Belcher: A RESOLUTION declaring February 20, 2007, as Kentucky Hospice Day.

HR 136, by Representatives Owens and Meeks: A RESOLUTION supporting equal representation in Congress for the residents of the District of Columbia by providing them the opportunity to elect representatives with full status.

HJR 137, by Representative Westrom: A JOINT RESOLUTION directing the Cabinet for Health and Family Services to provide resources and support for the Office of the Ombudsman for the Cabinet to track and report on trends in the receipt, review, and resolution of citizen complaints about child protection programs and services.

HR 138, by Representative Jenkins: A RESOLUTION adjourning the House of Representatives in honor of Angela Lynn Akridge upon the occasion of being named 2006 Young Engineer of the Year by the National Society of Professional Engineers.

HCR 139, by Representatives Bell and Wilkey: A CONCURRENT RESOLUTION urging the Army Corps of engineers to increase the depth of Barren River during the winter pool.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 449**

Appropriations and Revenue: **HB 407, 441, 446, 462, 466**

Banking and Insurance: **HB 401, 443**

Education: **HB 392, 409, 440**

Health and Welfare: **HB 459**

Judiciary: **HB 434, 438, 465, SB 34, 88**

Labor and Industry: **HB 437, 452**

Local Government: **HB 412, 435, 444, 447, 448, 451**

Natural Resources and Environment: **HJR 130, HCR 131**

State Government: **HB 439**

Transportation: **HB 454, HCR 122**

House Floor: **HR 129, 132, 133**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HCR 88, HB 420, 421, 422, 423, 424, 425, 363, 364, 365, 396, 426, 348, 334, 403**

Report of Committees

The Committee on Licensing and Occupations reported **HB 46, HB 124,** with Committee Substitute and Committee Amendment attached thereto, **HB 138, HB 278,** with Committee Substitute attached thereto, **HB 367,** with Committee Substitute attached thereto, and **HB 394,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 46, AN ACT relating to engineers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.160 is amended to read as follows:

(1) Licenses for individuals and permits for business entities shall be valid for not more than two (2) years from the date of issuance, unless renewed.

(2) The executive director shall notify every licensee and permit holder at least one (1) month in advance of the pending expiration date.

  (a) Renewal notices shall be mailed to the licensee or permit holder at ***his or her***[~~their~~] last known address and state the amount of the renewal fee.

  (b) All license renewals shall be completed on or before June 30 of the year of expiration.

  (c) All permit renewals shall be completed on or before December 31 of the year of expiration.

  (d) Each licensee or permit holder is responsible for notifying the board of any address change.

(3) The failure to renew shall not deprive a licensee or permit holder of the right of renewal, but the fee to be paid for the renewal shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed. Any licensee or permit holder who fails to renew within one (1) year after expiration shall furnish the board with:

  (a) Satisfactory evidence of qualification of continued practice. However, the board may require reexamination; and

  (b) [~~If the licensee or permit holder is a professional land surveyor,~~]Evidence of completion of continuing ***education***[~~professional development~~] hours[~~ for professional land surveyors~~] as required by KRS 322.290.

(4) No licensee shall be required to pay renewal fees to the board during the time the licensee is on active duty in the Armed Forces of the United States.

  (a) Any licensee who has previously paid any renewal fee covering a period of time spent on active duty shall, upon filing with the board a copy of his or her discharge, be granted a license renewal without the payment of any fee.

  (b) The free renewal shall be for as many license years as the licensee was on active duty and which were covered in whole or in part by the previous payment of a renewal fee.

  (c) The continuing ***education***[~~professional development~~] requirement[~~ for land surveyors~~] under KRS 322.290 shall be waived for those years the licensee was on active duty.

Section 2. KRS 322.290 is amended to read as follows:

The board shall:

(1) Administer this chapter;

(2) Adopt an official seal;

(3) Provide suitable office quarters at its own expense;

(4) Adopt and amend all bylaws and rules of procedure, and promulgate administrative regulations, consistent with the Constitution and laws of the state and reasonably necessary for the proper performance of its duties and the regulation and fair conduct of the proceedings before it;

(5) Appoint an executive director and assistant executive directors and fix their compensation;

(6) Employ any clerk or other assistants necessary for the proper performance of its work;

(7) Appoint a general counsel and any assistant general counsel as it deems necessary and fix their compensation;

(8) Appoint investigatory personnel, as it deems necessary, and fix their compensation;

(9) Appoint committees of licensees, as it deems necessary, to review issues before the board and make recommendations to the board;

(10) Make expenditures, as it deems necessary, for any purpose that it considers reasonably necessary for the proper performance of its duties, including paying the expenses of the board's delegates to national conventions of and membership dues to the National Council of Examiners for Engineering and Surveying or other affiliated national boards or societies;

(11) Adopt and promulgate by administrative regulation a code of professional practice and conduct, which shall be based upon generally recognized principles of professional ethical conduct and binding upon persons licensed under this chapter. A code of professional practice and conduct shall be made known to all licensees and applicants and shall include, but not be limited to, the following objectives:

  (a) The protection of the public health, safety, and welfare;

  (b) The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

  (c) The avoidance of conflicts of interest;

  (d) The prohibition of solicitation or acceptance of engineering or land surveying work on any basis other than qualifications for the work offered;

  (e) The prohibition of association with any person engaging in illegal or dishonest activities; and

  (f) The limitation of professional service to the area of competence of the licensee;

(12) Adopt appropriate standards of practice;

(13) Promulgate administrative regulations in accordance with KRS Chapter 13A to establish rules for the use of stamps, seals, and signatures in electronic transactions.

(14) Bring, in its name, injunctive proceedings in the Franklin Circuit Court to enjoin any person, business entity, or combination thereof in violation of KRS 322.020 or KRS 322.060;[~~ and~~]

(15) Adopt a program for continuing education for its individual land surveyor licensees. No individual land surveyor licensee shall be permitted to renew his or her license unless the minimum annual continuing education requirements are met, in addition to any other requirement for renewal. The program for continuing education shall not exceed a total of eight (8) credit clock hours per year and shall not include testing or examination of the licensee in any manner***; and***

(16) (a) Adopt a program for continuing education for its individual engineer licensees. No individual engineer licensee shall be permitted to renew his or her license unless the minimum annual continuing education requirements are met, except as provided in paragraph (b) of this subsection, in addition to any other requirement for renewal. The program for continuing education shall not exceed a total of fifteen (15) credit clock hours per year and shall not include testing or examination of the licensee in any manner.

  (b) Any person licensed under this chapter as a professional engineer prior to January 1, 1972, who has maintained his or her license in good standing since becoming licensed shall not be subject to any continuing education requirements.

HB 124, AN ACT relating to the cigarette excise tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

(2) "Manufacturer" means any person who manufactures or produces cigarettes, snuff, or other tobacco products within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" means a sale to any person for any other purpose other than resale.

(5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of

size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, other tobacco products, or snuff, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.

(8) "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes, other tobacco products, or snuff purchased by the wholesaler directly from ***a***[~~the~~] manufacturer ***or master cigarette distributor*** on which the tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes, other tobacco products, or snuff. ***"Resident wholesaler" shall not include a master cigarette distributor.***

(10) "Nonresident wholesaler" means any person who purchases cigarettes, other tobacco products, or snuff directly from ***a***[~~the~~] manufacturer ***or master cigarette distributor*** and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid. ***"Nonresident wholesaler" shall not include a master cigarette distributor.***

(11) "Sub-jobber" means any person who purchases cigarettes, other tobacco products, or snuff from a wholesaler licensed under KRS 138.195 on which the tax imposed by KRS 138.140 has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes, other tobacco products, or snuff available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes, other tobacco products, or snuff for resale in the regular course of business.

(12) "Vending machine operator" means any person who operates one (1) or more cigarette, other tobacco products, or snuff vending machines.

(13) "Transporter" means any person transporting untax-paid cigarettes, other tobacco products, or snuff obtained from any source to any destination within this state, other than cigarettes, other tobacco products, or snuff transported by the manufacturer thereof.

(14) "Unclassified acquirer" means any person in this state who acquires cigarettes, other tobacco products, or snuff from any source on which the tax imposed by KRS 138.140 has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195. ***"Unclassified acquirer" shall not include a master cigarette distributor.***

(15) "Other tobacco products" means:

(a) Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco;

(b) Cavendish, plug and twist tobacco, fine-cut, and other chewing tobacco; or

(c) Shorts, dry snuff, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking. "Other tobacco products" does not include cigarettes as defined in subsection (5) of this section, or moist snuff taxed under the provisions of KRS 138.140(5).

(16) "Wholesale sale" means a sale made for the purpose of resale in the regular course of business***, other than sales made by a master cigarette distributor to a resident wholesaler, nonresident wholesaler or unclassified acquirer***.

(17) ***"Master cigarette distributor" means a person who:***

(a) Maintains an established place of business in this state;

(b) Purchases one hundred percent (100%) of all cigarettes, other tobacco products, and snuff offered for sale directly from one (1) manufacturer on which the tax provided for in KRS 138.130 to 138.205 is unpaid;

(c) Has, by written agreement with one (1) manufacturer, the exclusive right to sell the manufacturer's cigarettes, other tobacco products and snuff to resident wholesalers licensed under KRS 138.195(2), nonresident wholesalers licensed under KRS 138.195(2), and unclassified acquirers licensed under KRS 138.195(6); and

(d) Does not sell cigarettes, other tobacco products, or snuff, on which the tax provided for in KRS 138.130 to 138.205 is unpaid, to retailers or consumers.

(18) "Cigarette paper" means paper or a similar material suitable for use by consumers to wrap or roll tobacco into the form of a cigarette.

Section 2. KRS 138.195 is amended to read as follows:

(1) ***(a)*** No person other than a manufacturer ***or master cigarette distributor*** shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid***.***[~~, nor~~]

(b) No person other than a manufacturer shall act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) ***(a) Each master cigarette distributor shall secure a separate license for each place of business where cigarettes, other tobacco products, or snuff on which the tax has not been paid are received or held for sale to licensed resident wholesalers, licensed nonresident wholesalers, or licensed unclassified acquirers. The license shall be secured on or before July 1 of each year. Each licensee shall pay the sum of two thousand dollars ($2,000) each year or portion thereof for each license secured.***

(b) Each master cigarette distributor shall keep written records of:

1. All purchases of cigarettes, other tobacco products, or snuff, including the name of the manufacturer, name of the brand purchased, date purchased, date sold, date shipped, method of shipment, and the name of the licensed resident wholesaler, licensed nonresident wholesaler, or unclassified acquirer purchasing the cigarettes, other tobacco products, or snuff;

2. All shipments of cigarettes, other tobacco products, or snuff both within this state and without this state; and

3. Any other information the department may require.

(c) Every master cigarette distributor shall file reports with the department and submit information on a monthly basis as required by the department.

(8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(9)[~~(8)~~] The department may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the revocation of any license issued by the department, after due notice and a hearing by the department. The commissioner of the Department of Revenue may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the commissioner together with a recommendation as to the revocation of such license. From any revocation made by the commissioner of the Department of Revenue on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(10)[~~(9)~~] No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(11)[~~(10)~~] Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes, other tobacco products, or snuff to persons within this state, and shall submit reports of such shipments as the department may require by regulation.

(12)[~~(11)~~] No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

(13)[~~(12)~~] Wholesalers of other tobacco products and snuff shall pay and report the tax levied by KRS 138.140(4) and (5) on or before the twentieth day of the calendar month following the month in which the possession or title of the other tobacco products or smokeless tobacco products are transferred from the wholesaler to retailers or consumers in this state. The Department of Revenue shall promulgate administrative regulations setting forth the details of the reporting requirements.

(14)[~~(13)~~] A tax return shall be filed for each reporting period whether or not tax is due.

Section 3. KRS 138.205 is amended to read as follows:

(1) Any licensee under KRS 138.195 who violates any provision of KRS 138.130 to 138.205, or any administrative regulation promulgated under them, shall become indebted to the Commonwealth in the sum of five hundred dollars ($500) for each violation. The civil penalty may be collected by action in the Franklin Circuit Court.

(2) Any manufacturer who fails to keep written records, and submit reports to the department, as required by the provisions of subsection ***(11)***[~~(10)~~] of KRS 138.195, ***and any master cigarette distributor who fails to keep written records, fails to submit reports to the department as required by subsection (7) of Section 2 of this Act, or fails to meet the requirements of subsection (17) of Section 1 of this Act,*** shall become indebted to the Commonwealth in the sum of one thousand dollars ($1,000) for each violation. The penalty may be enforced by action of the Franklin Circuit Court.

(3) Any manufacturer doing business within this state without having complied with the provisions of KRS Chapter 271B as to designation of process agent shall, by so doing of business, be deemed to have made the Secretary of State its agent for the service of process in any civil action instituted in the Franklin Circuit Court for the recovery of the penalty. In any action, the complaint shall set forth the post office address of the home office of the manufacturer.

(4) Any nonresident person licensed under the provisions of KRS 138.195 shall, at the time of application for license, designate some resident of this state as a process agent for the purpose of service of civil process in any civil action originating in any court of this Commonwealth, and service upon the person so designated shall be sufficient to bring the nonresident person before any court of this Commonwealth for all purposes.

(5) Any person acting in the capacity of a licensee under the provisions of KRS 138.130 to 138.205 without having secured a license as provided in KRS 138.195 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 4. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.

(2) Any person who fails to supply the information required by subsection ***(9)***[~~(8)~~] of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(3) Any person violating subsection ***(11)***[~~(10)~~] of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the department or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.

(6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.

(8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) (a) Any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under KRS 138.450 shall be guilty of a Class D felony and shall be fined not less than two thousand dollars ($2,000) per offense.

(b) Any person who violates any of the other provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) and if the offender is an individual, he shall be guilty of a Class A misdemeanor.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a Class A misdemeanor.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be guilty of a Class D felony.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 5. KRS 131.604 is amended to read as follows:

As used in KRS 131.604 to 131.630:

(1) "Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, ***master cigarette distributors,*** and unclassified acquirers as defined in KRS 138.130.

(3) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(4) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto.

(5) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.

(6) "Master settlement agreement" has the same meaning as in KRS 131.600.

(7) "Cigarette" has the same meaning as in KRS 131.600.

(8) "Commissioner" means the commissioner of the Department of Revenue.

(9) "Department" means the Department of Revenue.

(10) "Tobacco product manufacturer" has the same meaning as in KRS 131.600.

(11) "Units sold" has the same meaning as in KRS 131.600.

(12) "Qualified escrow fund" has the same meaning as in KRS 131.600.

Section 6. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "Commissioner" means the commissioner of the Department of Revenue of the Commonwealth of Kentucky.

(3) "Department" means the Department of Revenue.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), ***master cigarette distributor as defined in Section 1 of this Act,*** broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 7. KRS 438.305 is amended to read as follows:

As used in KRS 438.305 to 438.340, unless the context requires otherwise:

(1) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(2) "Nonresident wholesaler" ***has the same meaning as in KRS 138.130***[~~means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid~~];

(3) "Proof of age" means a driver's license or other documentary or written evidence that the individual is eighteen (18) years of age or older;

(4) "Resident wholesaler" ***has the same meaning as in KRS 138.130***[~~means any person who purchases at least seventy five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes~~];

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

(7) "Master cigarette distributor" has the same meaning as in Section 1 of this Act.

Section 8. KRS 438.313 is amended to read as follows:

(1) No wholesaler, retailer, ***master cigarette distributor,*** or manufacturer of cigarettes or tobacco products may distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense. The fine shall be administered by the Office of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the Office of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 9. This Act takes effect July 1, 2007.

The Committee Substitute to **HB 124** is as follows:

HB 124, AN ACT relating to the cigarette excise tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

(2) "Manufacturer" means any person who manufactures or produces cigarettes, snuff, or other tobacco products within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" means a sale to any person for any other purpose other than resale.

(5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, other tobacco products, or snuff, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.

(8) "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes, other tobacco products, or snuff purchased by the wholesaler directly from ***a***[~~the~~] manufacturer ***or master tobacco products distributor*** on which the tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes, other tobacco products, or snuff. ***"Resident wholesaler" shall not include a master tobacco products distributor.***

(10) "Nonresident wholesaler" means any person who purchases cigarettes, other tobacco products, or snuff directly from ***a***[~~the~~] manufacturer ***or master tobacco products distributor*** and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid. ***"Nonresident wholesaler" shall not include a master tobacco products distributor.***

(11) "Sub-jobber" means any person who purchases cigarettes, other tobacco products, or snuff from a wholesaler licensed under KRS 138.195 on which the tax imposed by KRS 138.140 has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes, other tobacco products, or snuff available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes, other tobacco products, or snuff for resale in the regular course of business.

(12) "Vending machine operator" means any person who operates one (1) or more cigarette, other tobacco products, or snuff vending machines.

(13) "Transporter" means any person transporting untax-paid cigarettes, other tobacco products, or snuff obtained from any

source to any destination within this state, other than cigarettes, other tobacco products, or snuff transported by the manufacturer thereof.

(14) "Unclassified acquirer" means any person in this state who acquires cigarettes, other tobacco products, or snuff from any source on which the tax imposed by KRS 138.140 has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195. ***"Unclassified acquirer" shall not include a master tobacco products distributor.***

(15) "Other tobacco products" means:

(a) Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco;

(b) Cavendish, plug and twist tobacco, fine-cut, and other chewing tobacco; or

(c) Shorts, dry snuff, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking. "Other tobacco products" does not include cigarettes as defined in subsection (5) of this section, or moist snuff taxed under the provisions of KRS 138.140(5).

(16) "Wholesale sale" means a sale made for the purpose of resale in the regular course of business***, other than sales made by a master tobacco products distributor to a resident wholesaler, nonresident wholesaler or unclassified acquirer***.

(17) ***"Master tobacco products distributor" means a person who:***

(a) Maintains an established place of business in this state;

(b) Purchases one hundred percent (100%) of all cigarettes, other tobacco products, and snuff offered for sale directly from one (1) manufacturer on which the tax provided for in KRS 138.130 to 138.205 is unpaid;

(c) Has a written agreement with one (1) manufacturer, granting the person:

1. The exclusive right to sell the manufacturer's cigarettes, other tobacco products and snuff in a defined territory that includes the Commonwealth of Kentucky in its entirety;

2. The exclusive right to sell the manufacturer's cigarettes to resident wholesalers licensed under subsection (2) of Section 2 of this Act, nonresident wholesalers licensed under subsection (2) of Section 2 of this Act, and unclassified acquirers licensed under subsection (6) of Section 2 of this Act;

3. The exclusive right to sell the manufacturer's other tobacco products and snuff; and

(d) Does not sell cigarettes, other tobacco products or snuff to retailers or consumers.

(18) "Cigarette paper" means paper or a similar material suitable for use by consumers to wrap or roll tobacco into the form of a cigarette.

Section 2. KRS 138.195 is amended to read as follows:

(1) ***(a)*** No person other than a manufacturer ***or master tobacco products distributor*** shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid***.***[~~, nor~~]

(b) No person other than a manufacturer shall act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together

with the license number assigned to such transporter by the department.

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) *(a) 1. Each master tobacco products distributor shall secure a separate license for each place of business where cigarettes, other tobacco products, or snuff on which the tax has not been paid are received or held for sale to licensed resident wholesalers, licensed nonresident wholesalers, or licensed unclassified acquirers.*

2. The license shall be secured on or before July 1 of each year. Each licensee shall pay the sum of two thousand dollars ($2,000) each year or portion thereof for each license secured.

3. The department may examine the applicant's records and shall not issue the license if the applicant:

a. Holds a resident wholesaler's license, nonresident wholesaler's license or unclassified acquirer's license under this section in the applicant's name or through or under the name of a different person or entity;

b. Has a financial interest, directly or indirectly, by stock ownership or through interlocking directors in a corporation or other entity, in the establishment, maintenance, or operation in the business of a licensed resident wholesaler, licensed nonresident wholesaler, or licensed unclassified acquirer; or

c. Has acquired by ownership, leasehold, mortgage, or otherwise, directly or indirectly, an interest in the premises of a licensed resident wholesaler, licensed nonresident wholesaler, or licensed unclassified acquirer.

(b) Each master tobacco products distributor shall keep written records of:

1. All purchases and sales of cigarettes, other tobacco products, or snuff, including the name of the manufacturer, name of the brand purchased, date purchased, date sold, date shipped, method of shipment, and the name of the licensed resident wholesaler, licensed nonresident wholesaler, or unclassified acquirer purchasing the cigarettes, other tobacco products, or snuff;

2. All shipments of cigarettes, other tobacco products, or snuff both within this state and without this state; and

3. Any other information the department may require.

(c) Every master tobacco products distributor shall file reports with the department and submit information on a monthly basis as required by the department.

(8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(9)[~~(8)~~] The department may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the revocation of any license issued by the department, after due notice and a hearing by the department. The commissioner of the Department of Revenue may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the commissioner together with a recommendation as to the revocation of such license. From any revocation made by the commissioner of the Department of Revenue on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(10)[~~(9)~~] No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(11)[~~(10)~~] Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes, other tobacco products, or snuff to persons within this state, and shall submit reports of such shipments as the department may require by regulation.

(12)[~~(11)~~] No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

(13)[~~(12)~~] Wholesalers of other tobacco products and snuff shall pay and report the tax levied by KRS 138.140(4) and (5) on or before the twentieth day of the calendar month following the month in which the possession or title of the other tobacco

products or smokeless tobacco products are transferred from the wholesaler to retailers or consumers in this state. The Department of Revenue shall promulgate administrative regulations setting forth the details of the reporting requirements.

(14)[~~(13)~~] A tax return shall be filed for each reporting period whether or not tax is due.

Section 3. KRS 138.205 is amended to read as follows:

(1) Any licensee under KRS 138.195 who violates any provision of KRS 138.130 to 138.205, or any administrative regulation promulgated under them, shall become indebted to the Commonwealth in the sum of five hundred dollars ($500) for each violation. The civil penalty may be collected by action in the Franklin Circuit Court.

(2) Any manufacturer who fails to keep written records, and submit reports to the department, as required by the provisions of subsection *(11)*[~~(10)~~] of KRS 138.195, ***and any master tobacco products distributor who fails to keep written records, fails to submit reports to the department as required by subsection (7) of Section 2 of this Act, or fails to meet the requirements of subsection (17) of Section 1 of this Act,*** shall become indebted to the Commonwealth in the sum of one thousand dollars ($1,000) for each violation. The penalty may be enforced by action of the Franklin Circuit Court.

(3) Any manufacturer doing business within this state without having complied with the provisions of KRS Chapter 271B as to designation of process agent shall, by so doing of business, be deemed to have made the Secretary of State its agent for the service of process in any civil action instituted in the Franklin Circuit Court for the recovery of the penalty. In any action, the complaint shall set forth the post office address of the home office of the manufacturer.

(4) Any nonresident person licensed under the provisions of KRS 138.195 shall, at the time of application for license, designate some resident of this state as a process agent for the purpose of service of civil process in any civil action originating in any court of this Commonwealth, and service upon the person so designated shall be sufficient to bring the nonresident person before any court of this Commonwealth for all purposes.

(5) Any person acting in the capacity of a licensee under the provisions of KRS 138.130 to 138.205 without having secured a license as provided in KRS 138.195 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 4. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.

(2) Any person who fails to supply the information required by subsection *(9)*[~~(8)~~] of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(3) Any person violating subsection *(11)*[~~(10)~~] of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the department or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.

(6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.

(8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) (a) Any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under KRS 138.450 shall be guilty of a Class D felony and shall be fined not less than two thousand dollars ($2,000) per offense.

(b) Any person who violates any of the other provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) and if the offender is an individual, he shall be guilty of a Class A misdemeanor.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked,

shall be guilty of a Class A misdemeanor.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be guilty of a Class D felony.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 5. KRS 131.604 is amended to read as follows:

As used in KRS 131.604 to 131.630:

(1) "Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, ***master tobacco products distributors,*** and unclassified acquirers as defined in KRS 138.130.

(3) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(4) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto.

(5) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.

(6) "Master settlement agreement" has the same meaning as in KRS 131.600.

(7) "Cigarette" has the same meaning as in KRS 131.600.

(8) "Commissioner" means the commissioner of the Department of Revenue.

(9) "Department" means the Department of Revenue.

(10) "Tobacco product manufacturer" has the same meaning as in KRS 131.600.

(11) "Units sold" has the same meaning as in KRS 131.600.

(12) "Qualified escrow fund" has the same meaning as in KRS 131.600.

Section 6. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "Commissioner" means the commissioner of the Department of Revenue of the Commonwealth of Kentucky.

(3) "Department" means the Department of Revenue.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), ***master tobacco products distributor as defined in Section 1 of this Act,*** broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes tobacco cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary

course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 7. KRS 438.305 is amended to read as follows:

As used in KRS 438.305 to 438.340, unless the context requires otherwise:

(1) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(2) "Nonresident wholesaler" ***has the same meaning as in KRS 138.130***[~~means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid~~];

(3) "Proof of age" means a driver's license or other documentary or written evidence that the individual is eighteen (18) years of age or older;

(4) "Resident wholesaler" ***has the same meaning as in KRS 138.130***[~~means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes~~];

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

(7) "Master tobacco products distributor" has the same meaning as in Section 1 of this Act.

Section 8. KRS 438.313 is amended to read as follows:

(1) No wholesaler, retailer, ***master tobacco products distributor,*** or manufacturer of cigarettes or tobacco products may distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense. The fine shall be administered by the Office of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the Office of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 9. This Act takes effect July 1, 2007.

The Committee Amendment No. 1 Title to **HB 124** is as follows:

HB 124, Amend the title to read as follows: "AN ACT relating to tobacco products distribution.".

HB 138, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

  (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
  (b) Patented, patent, and proprietary medicines;
  (c) Toilet, medicinal, and antiseptic preparations and solutions;
  (d) Flavoring extracts and syrups;
  (e) Denatured alcohol or denatured rum;
  (f) Vinegar and preserved sweet cider;
  (g) Wine for sacramental purposes;
  (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
  (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(8) "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.

(9) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(10) "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(11) "City administrator" means city alcoholic beverage control administrator.

(12) "Commissioner" means the commissioner of the Kentucky Department of Revenue.

(13) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(14) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(15) "County administrator" means county alcoholic beverage control administrator.

(16) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(17) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(18) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(19) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(20) "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(21) "Election" means:

  (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

  (b) Any other election not pertaining to alcohol.

(22) "Executive director" means the executive director of the Office of Alcoholic Beverage Control.

(23) "Field representative" means any employee or agent of the office who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the office who is assigned, temporarily or permanently, by the executive director to duty outside the main office of the office at Frankfort, in connection with the administration of alcoholic beverage statutes.

(24) "License" means any license issued pursuant to KRS 243.020 to 243.670.

(25) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(26) "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).

(27) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(28) "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(29) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(30) "Minor" means any person who is not twenty-one (21) years of age or older.

(31) "Office" means the Office of Alcoholic Beverage Control.

(32) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(33) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(34) ***"Qualified historic site" means a site that is listed as a National Historic Landmark, or is a contributing property within a commercial district listed in the National Register of Historic Places.***

(35) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(36)[~~(35)~~] "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(37)[~~(36)~~] "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.

(38)[~~(37)~~] "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(39)[~~(38)~~] "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(40)[~~(39)~~] "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(41)[~~(40)~~] "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(42)[~~(41)~~] "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(43)[~~(42)~~] "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.

(44)[~~(43)~~] "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(45)[~~(44)~~] "Small farm winery" means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year.

(46)[~~(45)~~] "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(47)[~~(46)~~] "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires.

(48)[~~(47)~~] "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

(49)[~~(48)~~] "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(50)[~~(49)~~] "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(51)[~~(50)~~] "Warehouse" means any place in which alcoholic beverages are housed or stored.

(52)[~~(51)~~] "Wholesale sale" means a sale to any person for the purpose of resale.

(53)[~~(52)~~] "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(54)[~~(53)~~] "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(55)[~~(54)~~] "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded.

SECTION 2. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) To promote economic development and tourism in any county or city in which prohibition is in effect, in whole or in part, and a qualified historic site is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in the precinct of the county where the qualified historic site is located, notwithstanding any other provision of the Kentucky Revised Statutes.

(2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020; 242.030(1), (2), and (5); 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be, "Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)?"

(3) Upon approval of the proposition, the Office of Alcoholic Beverage Control shall issue a license to qualified historic sites that meet the criteria included in the proposition for the sale of alcoholic beverages by the drink as provided in

KRS 243.030.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:

(1)		Distiller's license, per annum	$2,500.00
(2)		Rectifier's license, per annum	$2,500.00
(3)		Blender's license, per annum	$2,500.00
(4)		Vintner's license, per annum	$1,000.00
(5)		Small farm winery license, per annum	$100.00
	(a)	Small farm winery off-premises retail license, per annum	$25.00
(6)		Wholesaler's license, per annum	$2,000.00
(7)		Retail package license, per annum:	
	(a)	In counties containing cities of the first class or a consolidated local government	$800.00
	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	In all other counties	$400.00
(8)		Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a)	In counties containing cities of the first class or a consolidated local government	$1,000.00
	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)		Transporter's license, per annum	$100.00
(10)		Dining car license, per annum	$100.00
(11)		Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)		Special industrial alcohol license, per annum	$50.00
(13)		Special nonindustrial alcohol license, per annum	$50.00
(14)		Special agent's or solicitor's license, per annum	$25.00
(15)		Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)		Special temporary liquor license, per event	$100.00
(17)		Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	$500.00
(19)	Nonresident special agent or solicitor's license, per annum	$100.00
(20)	Transport permit, nonresident license, per annum	$100.00
(21)	Through transporter's license, per annum	$100.00
(22)	Freight forwarder's license, per annum	$100.00
(23)	Restaurant wine license, per annum	$500.00
(24)	Special temporary wine license, per event	$50.00
(25)	Caterer's license, per annum	$800.00
(26)	Souvenir retail liquor license, per annum	$500.00
(27)	Special temporary distilled spirits and wine auction license, per event	$100.00
(28)	Airport drink license, per annum	$1,000.00

(29) Convention center or convention hotel complex license, per annum $5,000.00

(30) Extended hours supplemental license, per annum $2,000.00

(31) Horse race track license, per annum $2,000.00

(32) Automobile race track license, per annum $2,000.00

(33) Air or rail system license, per annum $2,000.00

(34) Riverboat license, per annum $1,000.00

(35) Bottling house license, per annum $1,000.00

(36) Hotel in-room license, per annum $200.00

(37) Bonded warehouse license, per annum $1,000.00

(38) Air transporter liquor license, per annum $500.00

(39) Sampling license, per annum $100.00

(40) Replacement or duplicate license $25.00

(41) Entertainment destination license, per annum $7,500.00

(42) (a) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages), new applicants:

1. In counties containing cities of the first class or a consolidated local government $1,200.00
2. In counties containing cities of the second class $900.00
3. In counties containing cities of the third class $800.00
4. In counties containing cities of the fourth, fifth, or sixth classes $700.00

(b) Renewals for limited restaurant licenses or limited golf course licenses shall be $50.00 less than the applicable licensing fee for new applicants.

(43) Small farm winery wholesaler's license, per annum $100.00

(44) ***Qualified historic site license (includes distilled spirits, wine, and malt beverages by the drink), per annum........ $1,000.00***

(45) A nonrefundable fee of fifty dollars ($50) shall be charged to process each new transitional license pursuant to KRS 243.045.

(46)[~~(45)~~] Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (27), (39), and (40). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the office.

Section 4. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the director of the Division of Malt Beverages, the fees for which shall be:

(1) Brewer's license, per annum $2,500.00

(2) Microbrewery license, per annum $500.00

(3) Distributor's license, per annum $500.00

(4) Malt beverage retail license, per annum:

(a) New applicants $200.00

(b) Renewals $150.00

(5) Dining car license, per annum $200.00

(6) Transporter's license, per annum $100.00

(7) Special temporary license, per event $50.00

(8) Special off-premises retail storage license, per annum $100.00

(9) Distributor's storage, per annum $250.00

(10) Special beer transporter's license, per annum $100.00

(11) Brew-on-premises license, per annum $500.00

(12) Out-of-state brewer license, per annum $1,500.00
(13) Malt beverage warehouse license, per annum $1,000.00
(14) Replacement or duplicate license, per annum $25.00
(15) Limited out-of-state brewer license, per annum $250.00
(16) *Qualified historic site, per annum..$200.00*

(17) A nonrefundable fee of fifty dollars ($50) shall be charged to process each new transitional license pursuant to KRS 243.045.

(18)[~~(17)~~] Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 242, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the office.

SECTION 5. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) A qualified historic site license shall authorize the licensee to:

(a) Sell distilled spirits, wine, and malt beverages by the drink at one (1) or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037 and 244.330;

(b) Sell distilled spirits, wine, and malt beverages by the drink to patrons at public or private functions held on the premises; and

(c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310.

(2) Nothing in this section exempts the holder of a qualified historic site license from the provisions of KRS Chapters 241, 242, 243, and 244, or from any rules of the board as established by administrative regulations, except as expressly stated in this section.

Section 6. KRS 243.050 is amended to read as follows:

(1) The office may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The office may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.

(3) The office may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.

(4) The office may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license shall be required, where applicable. An extended supplement license under subsection (5) of this section may also be issued where applicable. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class or a consolidated local government, if the original license was issued prior to July 15, 1998.

(5) Where it is determined by the office to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the office may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart

annually,~~[and]~~ at automobile race tracks having a seating capacity of at least thirty thousand (30,000) people*, and at qualified historic sites*. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, automobile race track,~~[meeting the requirements of this subsection, or]~~ commercial airport*, or qualified historic site meeting the requirements of this subsection* as provided above, the office may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The office may, by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry, passengers at large commercial airports,~~[and]~~ the automobile racing industry*, and qualified historic sites*.

Section 7. KRS 244.500 is amended to read as follows:

(1) No person holding a license to sell malt beverages shall offer or give anything tangible of value as a premium for the return of caps, stoppers, corks, stamps, wrappers, coupons, or labels taken from any bottle, case, barrel, or package containing malt beverages or to offer or give anything of value as a premium, gift, or prize for any purpose in connection with the sale of malt beverages.

(2) Subsection (1) of this section shall not apply to the return of moneys specifically deposited for the return of the original containers to the owners; nor shall subsection (1) of this section prohibit brewers, wholesalers, or distributors from giving anything of value as a premium, gift, or prize to wholesalers, distributors, or their employees in connection with sales incentive programs.

(3) Subsection (1) of this section shall not apply to brewer-sponsored national sweepstakes in which major prizes, not including rebates, price discount coupons, or brand-related novelty items are given to consumers based on certificates found in malt beverage packages or on point of sale materials. Malt beverage distributors, retail licensees, and their employees shall not be eligible to redeem the certificates or participate in the national sweepstakes.

(4) Subsection (1) of this section shall not prohibit brewers, out-of-state brewers, wholesalers, distributors, or retail licensees from selling malt beverages packaged in or securely bundled with brand-related novelty items if the price charged for the packaged or bundled malt beverages specifically includes the cost of the brand-related novelty item.

HB 278, AN ACT relating to cigarettes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act:

(1) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not the tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco;

(2) "Manufacturer" means:

- *(a) Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer;*
- *(b) The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or*
- *(c) Any entity that becomes a successor of an entity described in paragraphs (a) and (b) of this subsection;*

(3) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. The program shall ensure that the testing repeatability remains within the required repeatability values stated in paragraph (f) of subsection (1) of Section 2 of this Act for all test trials used to certify cigarettes in accordance with Sections 1 to 8 of this Act;

(4) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time;

(5) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale;

(6) "Sale" means:

- *(a) Any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor; and*
- *(b) The giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money;*

(7) "Sell" means an act of selling, or an offer or agreement to sell; and

(8) "Wholesale dealer" means:

(a) Any person who sells cigarettes or tobacco products to retailers or other persons for purposes of resale; and

(b) Any person who acts as a "nonresident wholesale," "resident wholesaler," or "unclassified acquirer" as defined in KRS 138.130, and who is authorized by the Department of Revenue to purchase and affix tax stamps on packages of cigarettes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (7) of this section, no cigarettes shall be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standards specified in this section, and a written certification has been filed by the manufacturer with the state fire marshal in accordance with Section 3 of this Act, and the cigarettes have been marked in accordance with Section 4 of this Act.

(a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(b) Testing shall be conducted on ten (10) layers of filter paper.

(c) No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty (40) replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by this section shall only be applied to a complete test trial.

(e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the state fire marshal.

(f) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure to determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen one-hundredths (0.19).

(g) This section does not require additional testing if cigarettes are tested consistent with Sections 1 to 8 of this Act for any other purpose.

(h) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

(2) (a) Each cigarette listed in a certification submitted pursuant to Section 3 of this Act that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette.

(b) For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or ten (10) millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(3) (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in paragraph (a) of subsection (1) of this section shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph (c) of subsection (1) of this section, the manufacturer may employ a test method and performance standard to certify the cigarette pursuant to Section 3 of this Act.

(b) If the state fire marshal determines the existence of other cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in Sections 1 to 8 of this Act, then the state fire marshal may authorize the manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under Sections 1 to 8 of this Act. All other applicable requirements of this section shall apply to the manufacturer.

(4) (a) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years, and shall make copies of the reports available to the state fire marshal and the Attorney General upon written request.

(b) Any manufacturer who fails to make copies of the reports available within sixty (60) days of receiving a written request shall be subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each day after the sixtieth day that the manufacturer does not make these copies available.

(5) The state fire marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in paragraph (c) of subsection (1) of this section.

(6) The state fire marshal shall review the effectiveness of this section and shall report every three (3) years to the General Assembly the fire marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this section. The report and legislative recommendations shall be submitted no later than October 1 of each three (3) year period.

(7) The requirements of this section shall not prohibit a wholesale dealer or retailer from selling its existing inventory of cigarettes on or after the effective date of this Act if the wholesale dealer or retailer can establish that state tax stamps were affixed to the cigarettes prior to the effective date of this Act, and if the wholesale dealer or retailer can establish that the inventory was purchased prior to the effective date of this Act in comparable quantity to the inventory purchased during the same period of the prior year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Each manufacturer shall submit to the state fire marshal a written certification attesting that:

(a) Each cigarette listed in the certification has been tested in accordance with Section 2 of this Act;

(b) Each cigarette listed in the certification meets the performance standard set forth under paragraph (c) of subsection (1) of Section 2 of this Act;

(2) Each cigarette listed in the certification shall be described with the following information:

(a) Brand or trade name on the package;

(b) Style, such as light or ultra light;

(c) Length in millimeters;

(d) Circumference in millimeters;

(e) Flavor, such as menthol or chocolate, if applicable;

(f) Filter or nonfilter;

(g) Package description, such as soft pack or box;

(h) Marking approved in accordance with Section 4 of this Act;

(i) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(j) The date that the testing occurred.

(3) The certifications shall be made available to the Attorney General for purposes consistent with Sections 1 to 8 of this Act and the Department of Revenue for the purposes of ensuring compliance with this section.

(4) Each cigarette certified under this section shall be recertified every three (3) years.

(5) For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a two hundred fifty dollar ($250) fee. The state fire marshal may adjust the fee annually to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by Sections 1 to 8 of this Act.

(6) The "Reduced Cigarette Ignition Propensity and Firefighter Protection Act Enforcement Fund" is established in the Finance and Administration Cabinet for use by the state fire marshal solely for processing, testing, enforcement, and oversight activities set out in Sections 1 to 8 of this Act. The fund shall consist of certification fees required under subsection (5) of this section, and any other moneys made available for such purpose from any source. Moneys credited to the fund may be invested until needed. All interest earned in the fund shall be retained in the fund. Notwithstanding KRS 45.229, moneys in the fund shall not lapse, but shall carry forward at the end of the fiscal year.

(7) If a manufacturer has certified a cigarette pursuant to this section, and afterward makes any change to the cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by Sections 1 to 8 of this Act, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in paragraph (a) of subsection (1) of Section 2 of this Act and maintains records of that retesting as required by Section 2 of this Act. Any altered cigarette which does not meet the performance standard set forth in paragraph (c) of subsection (1) of Section 2 of this Act shall not be sold in this state.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

A manufacturer shall place on each individual package of cigarettes the letters "FSC" which signify "Fire Standards Complaint," indicating compliance with the fire safety performance standard set forth in paragraph (c) of subsection (1) of Section 2 of this Act. The letters shall appear in eight (8) point type and be permanently printed, stamped, engraved, or embossed on the package at or near the UPC Code, if present.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) A manufacturer, wholesale dealer, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 2 of this Act, for the first offense shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) per each sale of the cigarettes and, for a subsequent offense, be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) per each sale of the cigarettes, except that in no case shall the penalty against the person or entity exceed one hundred thousand dollars ($100,000) for each thirty (30) day period.

(2) A retailer who knowingly sells cigarettes in violation of Section 2 of this Act shall:

(a) For the first offense be liable for a civil penalty not to exceed five hundred dollars ($500) and, for a subsequent offense, be liable for a civil penalty not to exceed two thousand dollars ($2,000) per each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale in the sale does not exceed one thousand (1,000) cigarettes; or

(b) For the first offense be liable for a civil penalty not to exceed one thousand dollars ($1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars ($5,000) per each sale or offer for sale of the cigarettes, if the total number of cigarettes sold or offered for sale in the sale exceeds one thousand (1,000) cigarettes, except that the penalty against any retailer shall not exceed twenty-five thousand dollars ($25,000) during a thirty (30) day period.

(3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 3 of this Act shall for the first offense be liable for a civil penalty not to exceed seventy-five thousand dollars ($75,000) and, for a subsequent offense, be liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000) for each false certification.

(4) Any other person violating any provision of Sections 1 to 8 of this Act shall be liable for a civil penalty for a first offense not to exceed one thousand dollars ($1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars ($5,000) for each violation.

(5) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by Section 2 of this Act shall be subject to forfeiture in accordance with the provisions of KRS 138.165. Before the destruction of any cigarette seized pursuant to KRS 138.165, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(6) In addition to any other remedy provided by law, the state fire marshal or Attorney General may file an action in Circuit Court for a violation of Sections 1 to 8 of this Act, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of Sections 1 to 8 of this Act, including enforcement costs relating to the specific violation and attorney's fees. Each violation of Sections 1 to 8 of this Act or of administrative regulations promulgated under Section 6 of this Act shall constitute a separate civil violation for which the state fire marshal or Attorney General may obtain relief.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The state fire marshal may promulgate administrative regulations if necessary to carry out the purposes of Sections 1 to 8 of this Act in accordance with the provisions of KRS Chapter 13A.

(2) The Department of Revenue in the regular course of conducting inspections of wholesale dealers and retailers, as authorized under the provisions of KRS 138.130 to 138.205, may inspect cigarettes to determine if the cigarettes are marked as required by Section 4 of this Act. If the cigarettes are not marked as required, the Department of Revenue shall notify the state fire marshal.

(3) (a) To enforce provisions of Sections 1 to 8 of this Act, the Attorney General and the state fire marshal are authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises.

(b) Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, is directed and required to give the Attorney General and the state fire marshal the means, facilities, and opportunity for the examinations authorized by this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

There is hereby established in the State Treasury a special fund to be known as the "Fire Prevention and Public Safety Fund." The fund shall consist of all moneys recovered as penalties under Section 5 of this Act. The moneys shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be made available to the state fire marshal to support fire safety and prevention programs.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 8 of this Act shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of Section 2 of this Act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons located in this state.

(2) Sections 1 to 8 of this Act shall no longer apply if a federal reduced cigarette ignition propensity standard is adopted and becomes effective.

(3) Notwithstanding any other provision of law, city, county, urban-county, charter county, or consolidated local government units of this state shall neither enact nor enforce any ordinance or other local law or regulation conflicting

with, or preempted by, any provision of Sections 1 to 8 of this Act or with any policy of this state expressed by Sections 1 to 8 of this Act, whether that policy be expressed by inclusion of a provision in Sections 1 to 8 of this Act or by exclusion of that subject from this Act.

Section 9. This Act takes effect on April 1, 2008.

The Committee Substitute to **HB 278** is as follows:

HB 278, AN ACT relating to cigarettes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act:

(1) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not the tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco;

(2) "Manufacturer" means:

(a) Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer;

(b) The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(c) Any entity that becomes a successor of an entity described in paragraphs (a) and (b) of this subsection;

(3) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. The program shall ensure that the testing repeatability remains within the required repeatability values stated in paragraph (f) of subsection (1) of Section 2 of this Act for all test trials used to certify cigarettes in accordance with Sections 1 to 8 of this Act;

(4) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time;

(5) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale;

(6) "Sale" means:

(a) Any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor; and

(b) The giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money;

(7) "Sell" means an act of selling, or an offer or agreement to sell; and

(8) "Wholesale dealer" means:

(a) Any person who sells cigarettes or tobacco products to retailers or other persons for purposes of resale; and

(b) Any person who acts as a "nonresident wholesale," "resident wholesaler," or "unclassified acquirer" as defined in KRS 138.130, and who is authorized by the Department of Revenue to purchase and affix tax stamps on packages of cigarettes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (7) of this section, no cigarettes shall be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standards specified in this section, and a written certification has been filed by the manufacturer with the state fire marshal in accordance with Section 3 of this Act, and the cigarettes have been marked in accordance with Section 4 of this Act.

(a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(b) Testing shall be conducted on ten (10) layers of filter paper.

(c) No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty (40) replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by this section shall only be applied to a complete test trial.

(e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable

accreditation standard required by the state fire marshal.

(f) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure to determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen one-hundredths (0.19).

(g) This section does not require additional testing if cigarettes are tested consistent with Sections 1 to 8 of this Act for any other purpose.

(h) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

(2) (a) Each cigarette listed in a certification submitted pursuant to Section 3 of this Act that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette.

(b) For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or ten (10) millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(3) (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in paragraph (a) of subsection (1) of this section shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph (c) of subsection (1) of this section, the manufacturer may employ a test method and performance standard to certify the cigarette pursuant to Section 3 of this Act.

(b) If the state fire marshal determines the existence of other cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in Sections 1 to 8 of this Act, then the state fire marshal may authorize the manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under Sections 1 to 8 of this Act. All other applicable requirements of this section shall apply to the manufacturer.

(4) (a) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years, and shall make copies of the reports available to the state fire marshal and the Attorney General upon written request.

(b) Any manufacturer who fails to make copies of the reports available within sixty (60) days of receiving a written request shall be subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each day after the sixtieth day that the manufacturer does not make these copies available.

(5) The state fire marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in paragraph (c) of subsection (1) of this section.

(6) The state fire marshal shall review the effectiveness of this section and shall report every three (3) years to the General Assembly the fire marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this section. The report and legislative recommendations shall be submitted no later than October 1 of each three (3) year period.

(7) The requirements of this section shall not prohibit a wholesale dealer or retailer from selling its existing inventory of cigarettes on or after the effective date of this Act if the wholesale dealer or retailer can establish that state tax stamps were affixed to the cigarettes prior to the effective date of this Act, and if the wholesale dealer or retailer can establish that the inventory was purchased prior to the effective date of this Act in comparable quantity to the inventory purchased during the same period of the prior year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Each manufacturer shall submit to the state fire marshal a written certification attesting that:

(a) Each cigarette listed in the certification has been tested in accordance with Section 2 of this Act;

(b) Each cigarette listed in the certification meets the performance standard set forth under paragraph (c) of subsection (1) of Section 2 of this Act;

(2) Each cigarette listed in the certification shall be described with the following information:

(a) Brand or trade name on the package;

(b) Style, such as light or ultra light;

(c) Length in millimeters;

(d) Circumference in millimeters;

(e) Flavor, such as menthol or chocolate, if applicable;

(f) Filter or nonfilter;

(g) Package description, such as soft pack or box;

(h) Marking approved in accordance with Section 4 of this Act;

(i) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(j) The date that the testing occurred.

(3) The certifications shall be made available to the Attorney General for purposes consistent with Sections 1 to 8 of this Act and the Department of Revenue for the purposes of ensuring compliance with this section.

(4) Each cigarette certified under this section shall be recertified every three (3) years.

(5) For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a two hundred fifty dollar ($250) fee. The state fire marshal may adjust the fee annually to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by Sections 1 to 8 of this Act.

(6) The "Reduced Cigarette Ignition Propensity and Firefighter Protection Act Enforcement Fund" is established in the Finance and Administration Cabinet for use by the state fire marshal solely for processing, testing, enforcement, and oversight activities set out in Sections 1 to 8 of this Act. The fund shall consist of certification fees required under subsection (5) of this section, and any other moneys made available for such purpose from any source. Moneys credited to the fund may be invested until needed. All interest earned in the fund shall be retained in the fund. Notwithstanding KRS 45.229, moneys in the fund shall not lapse, but shall carry forward at the end of the fiscal year.

(7) If a manufacturer has certified a cigarette pursuant to this section, and afterward makes any change to the cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by Sections 1 to 8 of this Act, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in paragraph (a) of subsection (1) of Section 2 of this Act and maintains records of that retesting as required by Section 2 of this Act. Any altered cigarette which does not meet the performance standard set forth in paragraph (c) of subsection (1) of Section 2 of this Act shall not be sold in this state.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

A manufacturer shall place on each individual package of cigarettes the letters "FSC" or "FS," which signify "Fire Standards Compliance" to indicate compliance with the fire safety performance standard set forth in paragraph (c) of subsection (1) of Section 2 of this Act. The letters shall appear in eight (8) point type and be permanently printed, stamped, engraved, or embossed on the package at or near the UPC Code, if present.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) A manufacturer, wholesale dealer, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 2 of this Act, for the first offense shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) per each sale of the cigarettes and, for a subsequent offense, be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) per each sale of the cigarettes, except that in no case shall the penalty against the person or entity exceed one hundred thousand dollars ($100,000) for each thirty (30) day period.

(2) A retailer who knowingly sells cigarettes in violation of Section 2 of this Act shall:

(a) For the first offense be liable for a civil penalty not to exceed five hundred dollars ($500) and, for a subsequent offense, be liable for a civil penalty not to exceed two thousand dollars ($2,000) per each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale in the sale does not exceed one thousand (1,000) cigarettes; or

(b) For the first offense be liable for a civil penalty not to exceed one thousand dollars ($1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars ($5,000) per each sale or offer for sale of the cigarettes, if the total number of cigarettes sold or offered for sale in the sale exceeds one thousand (1,000) cigarettes, except that the penalty against any retailer shall not exceed twenty-five thousand dollars ($25,000) during a thirty (30) day period.

(3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 3 of this Act shall for the first offense be liable for a civil penalty not to exceed seventy-five thousand dollars ($75,000) and, for a subsequent offense, be liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000) for each false certification.

(4) Any other person violating any provision of Sections 1 to 8 of this Act shall be liable for a civil penalty for a first offense not to exceed one thousand dollars ($1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars ($5,000) for each violation.

(5) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by

Section 2 of this Act shall be subject to forfeiture in accordance with the provisions of KRS 138.165. Before the destruction of any cigarette seized pursuant to KRS 138.165, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

(6) In addition to any other remedy provided by law, the state fire marshal or Attorney General may file an action in Circuit Court for a violation of Sections 1 to 8 of this Act, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of Sections 1 to 8 of this Act, including enforcement costs relating to the specific violation and attorney's fees. Each violation of Sections 1 to 8 of this Act or of administrative regulations promulgated under Section 6 of this Act shall constitute a separate civil violation for which the state fire marshal or Attorney General may obtain relief.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The state fire marshal may promulgate administrative regulations if necessary to carry out the purposes of Sections 1 to 8 of this Act in accordance with the provisions of KRS Chapter 13A.

(2) The Department of Revenue in the regular course of conducting inspections of wholesale dealers and retailers, as authorized under the provisions of KRS 138.130 to 138.205, may inspect cigarettes to determine if the cigarettes are marked as required by Section 4 of this Act. If the cigarettes are not marked as required, the Department of Revenue shall notify the state fire marshal.

(3) (a) To enforce provisions of Sections 1 to 8 of this Act, the Attorney General and the state fire marshal are authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises.

(b) Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, is directed and required to give the Attorney General and the state fire marshal the means, facilities, and opportunity for the examinations authorized by this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

There is hereby established in the State Treasury a special fund to be known as the "Fire Prevention and Public Safety Fund." The fund shall consist of all moneys recovered as penalties under Section 5 of this Act. The moneys shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be made available to the state fire marshal to support fire safety and prevention programs.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 8 of this Act shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of Section 2 of this Act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons located in this state.

(2) Sections 1 to 8 of this Act shall no longer apply if a federal reduced cigarette ignition propensity standard is adopted and becomes effective.

(3) Notwithstanding any other provision of law, city, county, urban-county, charter county, or consolidated local government units of this state shall neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of Sections 1 to 8 of this Act or with any policy of this state expressed by Sections 1 to 8 of this Act, whether that policy be expressed by inclusion of a provision in Sections 1 to 8 of this Act or by exclusion of that subject from this Act.

Section 9. This Act takes effect on April 1, 2008.

HB 367, AN ACT relating to the sale of horses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.357 is amended to read as follows:

(1) *For purposes of this section, "equine" means a horse of any breed used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, yearlings, or weanlings, or any interest therein.*

(2) Any sale, purchase, or transfer of an equine[~~ used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,~~] shall be:

(a) Accompanied by a written bill of sale or acknowledgment of purchase and security agreement setting forth the purchase price; and

(b) Signed by both the purchaser and the seller or their duly authorized agent or, in a transaction solely relating to a season or fractional interest in the stallion, signed by the syndicate manager or stallion manager.

(3)[~~(2)~~] In circumstances where a transaction described in subsection *(2)*[~~(1)~~] is accomplished through a public auction the bill of sale requirement described in subsection *(2)*[~~(1)~~] may be satisfied by the issuance of an auction receipt, generated by the auction house, and signed by the purchaser or the purchaser's duly authorized agent. An agent who signs an auction

receipt on behalf of his or her principal shall do so only if authorized in writing. When presented with such authorization, all other parties to the transaction may presume that an agent signing on behalf of his or her principal is duly authorized to act for the principal.

(4)[~~(3)~~] It shall be unlawful for any person to act as an agent for both the purchaser and the seller, which is hereby defined as a dual agent, in a transaction involving the sale, purchase, or transfer of an interest in an equine[~~ used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,~~] without:

(a) The prior knowledge of both the purchaser and the seller; and

(b) Written consent of both the purchaser and the seller.

(5)[~~(4)~~] It shall be unlawful for a person acting as an agent for either a purchaser or a seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine[~~ used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,~~] to receive compensation, fees, a gratuity, or any other item of value in excess of five hundred dollars ($500) and related directly or indirectly to such transaction from an individual or entity, including any consigner involved in the transaction, other than an agent's principal, unless:

(a) The agent receiving and the person or entity making the payment disclose in writing the payment to both the purchaser and seller; and

(b) Each principal for whom the agent is acting consents in writing to the payment.

(6)[~~(5)~~] Any person acting as an agent for a purchaser or seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine[~~ used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,~~] shall, upon request by *the*[~~his or her~~] principal or principals, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction to the principal or principals. However, disclosure of compensation arrangements described in subsection *(8)*[~~(7)~~] of this section shall not be required. For purposes of this subsection, financial records shall not include the agent's or owner's work product used to internally evaluate the equine.

(7)[~~(6)~~] Any person injured by a violation of this section shall recover treble damages from persons or entities violating this section, and the prevailing party in any litigation under this section shall be entitled to an award of costs of the suit, reasonable litigation expenses, and attorney's fees. As used in this section, treble damages shall equal three (3) times the sum of:

(a) The difference, if any, between the price paid for the equine and the actual value of the equine at the time of sale; and

(b) Any payment made in violation of subsection *(5)*[~~(4)~~] of this section.

(8)[~~(7)~~] Nothing in this section shall require disclosure of compensation arrangements between a principal and an agent where no dual agency exists, where the agent is acting solely for the benefit of his or her principal, and where the agent is being compensated solely by his or her principal.

(9)[~~(8)~~] Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, for transactions contemplated by this section that are accomplished through a public auction, this section shall not require disclosure of the reserves, the identity of the principals, or the auctioneer's commissions. Auction companies shall not be deemed to be dual agents for all purposes under this section.

(10)[~~(9)~~] The provisions of this section shall not apply to the sale, purchase, or transfer of an equine used for showing if the sale, purchase, or transfer does not exceed ten thousand dollars ($10,000).

(11)[~~(10)~~] ***No contract or agreement for payment of a commission, fee, gratuity, or any other form of compensation in connection with any sale, purchase, or transfer of an equine shall be enforceable by way of an action or defense unless:***

(a) The contract or agreement is in writing and is signed by the party against whom enforcement is sought; and

(b) The recipient of the compensation provides a written bill of sale for the transaction in accordance with subsections (2)(a) and (3) of this section.

(12) No person shall be held liable under this section unless that person has actual knowledge of the conduct constituting a violation of this section.

The Committee Substitute to **HB 367** is as follows:

HB 367, AN ACT relating to the sale of horses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.357 is amended to read as follows:

(1) ***For purposes of this section, "equine" means a horse of any breed used for racing or showing, including prospective***

racehorses, breeding prospects, stallions, stallion seasons, broodmares, yearlings, or weanlings, or any interest therein.

(2) Any sale, purchase, or transfer of an equine~~[used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,]~~ shall be:

(a) Accompanied by a written bill of sale or acknowledgment of purchase and security agreement setting forth the purchase price; and

(b) Signed by both the purchaser and the seller or their duly authorized agent or, in a transaction solely relating to a season or fractional interest in the stallion, signed by the syndicate manager or stallion manager.

(3)~~[(2)]~~ In circumstances where a transaction described in subsection *(2)*~~[(1)]~~ is accomplished through a public auction the bill of sale requirement described in subsection *(2)*~~[(1)]~~ may be satisfied by the issuance of an auction receipt, generated by the auction house, and signed by the purchaser or the purchaser's duly authorized agent. An agent who signs an auction receipt on behalf of his or her principal shall do so only if authorized in writing. When presented with such authorization, all other parties to the transaction may presume that an agent signing on behalf of his or her principal is duly authorized to act for the principal.

(4)~~[(3)]~~ It shall be unlawful for any person to act as an agent for both the purchaser and the seller, which is hereby defined as a dual agent, in a transaction involving the sale, purchase, or transfer of an interest in an equine~~[used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,]~~ without:

(a) The prior knowledge of both the purchaser and the seller; and

(b) Written consent of both the purchaser and the seller.

(5)~~[(4)]~~ It shall be unlawful for a person acting as an agent for either a purchaser or a seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine~~[used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,]~~ to receive compensation, fees, a gratuity, or any other item of value in excess of five hundred dollars ($500) and related directly or indirectly to such transaction from an individual or entity, including any consigner involved in the transaction, other than an agent's principal, unless:

(a) The agent receiving and the person or entity making the payment disclose in writing the payment to both the purchaser and seller; and

(b) Each principal for whom the agent is acting consents in writing to the payment.

(6)~~[(5)]~~ Any person acting as an agent for a purchaser or seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine~~[used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,]~~ shall, upon request by his or her principal or principals, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction to the principal or principals.~~[However, disclosure of compensation arrangements described in subsection (7) of this section shall not be required.]~~ For purposes of this subsection, financial records shall not include the agent's or owner's work product used to internally evaluate the equine.

(7)~~[(6)]~~ Any person injured by a violation of this section shall recover treble damages from persons or entities violating this section, and the prevailing party in any litigation under this section shall be entitled to an award of costs of the suit, reasonable litigation expenses, and attorney's fees. As used in this section, treble damages shall equal three (3) times the sum of:

(a) The difference, if any, between the price paid for the equine and the actual value of the equine at the time of sale; and

(b) Any payment made in violation of subsection *(5)*~~[(4)]~~ of this section.

(8)~~[(7)]~~ Nothing in this section shall require disclosure of compensation arrangements between a principal and an agent where no dual agency exists, where the agent is acting solely for the benefit of his or her principal, and where the agent is being compensated solely by his or her principal.

(9)~~[(8)]~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, for transactions contemplated by this section that are accomplished through a public auction, this section shall not require disclosure of the reserves, the identity of the principals, or the auctioneer's commissions. Auction companies shall not be deemed to be dual agents for all purposes under this section.

(10)~~[(9)]~~ The provisions of this section shall not apply to the sale, purchase, or transfer of an equine used for showing if the sale, purchase, or transfer does not exceed ten thousand dollars ($10,000).

(11)~~[(10)]~~ ***No contract or agreement for payment of a commission, fee, gratuity, or any other form of compensation in connection with any sale, purchase, or transfer of an equine shall be enforceable by way of an action or defense unless:***

(a) The contract or agreement is in writing and is signed by the party against whom enforcement is sought; and

(b) The recipient of the compensation provides a written bill of sale for the transaction in accordance with

subsections (2)(a) and (3) of this section.

(12) No person shall be held liable under this section unless that person has actual knowledge of the conduct constituting a violation of this section.

HB 394, AN ACT relating to ophthalmic dispensers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 326 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not operate an optical establishment within this Commonwealth without a license from the board. The board shall promulgate administrative regulations to list the information required on the optical establishment license application. This information may include affirmative evidence of ability to comply with the reasonable standards, rules, and regulations that may be prescribed by the board.

(2) The board shall issue an optical establishment license if the applicant:

(a) Meets the standards and requirements of this chapter and the rules and regulations of the board;

(b) Has properly completed the application form provided by the board; and

(c) Has remitted the nonrefundable license fee of fifty dollars ($50).

(3) An optical establishment license is valid only for the specific premises and person named in the application and is not transferable. The buyer of an optical establishment may operate it under the seller's optical establishment license pending the approval of the buyer's application for an optical establishment license. The buyer shall apply for an optical establishment license at least five (5) days prior to the date of sale.

(4) An optical establishment license holder shall notify the board within five (5) days if there is a change in the establishment name, street or mailing address, telephone number, or ownership. The license holder shall submit an updated optical establishment license form within ten (10) days after notifying the board of the change. The updated form shall be accompanied by a fee of thirty dollars ($30).

(5) An optical establishment license shall remain in effect unless an update is required pursuant to subsection (4) of this section or the license is revoked or suspended by the board.

(6) A separate license to operate shall be required for each optical establishment.

(7) The board may promulgate administrative regulations requiring the presence of specified equipment at each licensed optical establishment.

(8) Each optical establishment, when in use, shall be under the supervision of a Kentucky-licensed ophthalmic dispenser.

(9) A Kentucky-licensed ophthalmic dispenser shall not supervise more than one (1) optical establishment at the same time.

(10) The optical establishment shall display in a public place in the establishment its establishment license and the license of any ophthalmic dispenser who supervises the establishment as required by this section.

Section 2. KRS 326.010 is amended to read as follows:

As used in this chapter:

(1) "Board" ***means***[~~as used in this chapter shall mean~~] the "Kentucky Board of Ophthalmic Dispensers."

(2) "Ophthalmic dispensing[~~.~~]" ***means that*** a person[~~ practices ophthalmic dispensing within the meaning of the provisions of this chapter relating to ophthalmic dispensers, who~~] prepares and dispenses lenses, spectacles, eyeglasses, or ***related accessories***[~~appurtenances thereto~~] to the intended wearers[~~ thereof~~] on written prescriptions from ***licensed*** physicians, osteopaths, or optometrists[~~ duly licensed to practice their profession~~], and in accordance with ***these***[~~such~~] prescriptions, interprets, measures, adapts, fits, and adjusts ***the***[~~such~~] lenses, spectacles, eyeglasses, or ***related accessories***[~~appurtenances thereto~~] to the human face for the aid or correction of visual or ocular anomalies of the human eyes. The services and appliances relating to ophthalmic dispensing shall be dispensed, furnished, or supplied to the intended wearer or user[~~ thereof~~] only upon ***a*** written prescription issued by a physician, osteopath, or optometrist***.***[~~; but~~] Duplications, replacements, reproductions, or repetitions may be ***provided***[~~done~~] without prescriptions, ***but***[~~in which event any such act~~] shall be construed to be ophthalmic dispensing the same as if performed on the basis of an original written prescription.

(3) "Optical establishment" means any establishment where ophthalmic dispensing services for the general public are offered, advertised, or performed. Optical establishment shall not include any establishment that comes under the practice of medicine by a duly licensed physician, the practice of osteopathy by a duly licensed osteopath, or the practice of optometry by a duly licensed optometrist.

Section 3. KRS 326.070 is amended to read as follows:

(1) Nothing in the provisions of this chapter relating to ophthalmic dispensing shall be construed to limit or restrict, in any respect, the practice of medicine by duly licensed physicians,[~~ or~~] the practice of osteopathy by duly licensed osteopaths, or the practice of optometry by duly licensed optometrists***. A***[~~, and such~~] licensed physician, osteopath, or optometrist shall have all the rights and privileges ***of***[~~which may accrue under the provisions of this chapter to~~] ophthalmic dispensers

licensed ***under this chapter***[~~hereunder~~].

(2) This chapter shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in an optical office, laboratory, or shop.

(3) Persons, firms, and corporations that sell completely assembled eyeglasses or spectacles without advice or aid as to ***their***[~~the~~] selection[~~ thereof~~], as merchandise, from permanently located or established places of business shall not be subject to this chapter.

(4) Physicians, osteopaths,[~~ and~~] optometrists, and their employees while working under their regulation and supervision shall have the right to practice ophthalmic dispensing without qualifying under this chapter and shall not be subject to any of the provisions ***of this chapter***[~~herein~~].

(5) Nothing in this chapter shall be construed to require physicians, osteopaths, or optometrists to obtain a license to operate an optical establishment for their office, place of business, or their practice.

Section 4. KRS 326.090 is amended to read as follows:

(1) The board may refuse to issue a license, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine upon, or issue a written reprimand against the holder of a license to practice ophthalmic dispensing or an apprentice license if the applicant or licensee has:

(a) Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence of guilt at the ensuing disciplinary hearing of the licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Committed any unfair, false, misleading, or deceptive act or practice;

(c) Been incompetent or negligent in the practice of ophthalmic dispensing;

(d) Failed to comply with a lawful order of the board;

(e) Aided or abetted another person in falsely procuring or attempting to procure a license;

(f) Aided or abetted an unlicensed person in activities which violate KRS 326.030 and which are not otherwise exempted from the provisions of this chapter;

(g) Exhibited chronic or persistent inebriety or addiction to a drug habit, to an extent that disqualifies the applicant or the licensee from practicing with safety to the public;

(h) Committed fraud or deception in the application or in the examination for the license; or

(i) Violated any provisions of this chapter or administrative regulations promulgated in accordance with this chapter.

(2) ***The board may refuse to issue, revoke, suspend, or impose probationary conditions on the license of any optical establishment, and may issue a written reprimand and impose a fine for:***

(a) Misrepresenting or concealing a material fact in obtaining an optical establishment license;

(b) Operating an optical establishment in violation of any lawful order of the board, or any statute or administrative regulation governing the practice of ophthalmic dispensing;

(c) Operating an optical establishment without the supervision of a Kentucky-licensed ophthalmic dispenser; or

(d) Allowing, aiding, or abetting an unlicensed person to perform activities that violate KRS 326.030 and are not otherwise exempted from the provisions of this chapter.

(3) After investigating an alleged violation and offering the licensee the opportunity to respond to the allegation, the board may issue a written reprimand to the licensee if the board determines that a violation that is not of a serious nature has occurred. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee may file a written response to the reprimand within thirty (30) days of receiving the reprimand or may request a hearing with the board. If the licensee responds to the reprimand, his or her response shall be placed in the licensee's permanent file. If the licensee requests a hearing, the board shall set aside the written reprimand, pending the outcome of a hearing by the board under the provisions of KRS Chapter 13B.

The Committee on Agriculture and Small Business reported **HB 203,** with Committee Substitute and Committee Amendment attached thereto, **HB 231, HB 399, HCR 47,** and **HCR 127** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 203, AN ACT relating to show cattle, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.250 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Department" means the Department of Agriculture;

(b) "Commissioner" means the Commissioner of Agriculture;

(c) ***"Registered cattle" means cattle with approved registration papers from an***[~~"Purebred" means registered by the~~] appropriate association, organization, or authority;[~~ and~~]

(d) ***"Pen sale cattle" means uniform groups of commercial or registered beef cattle;***

(e) "Market animals" means beef prospect steers and market heifers; and

(f) "AOB" means all other breeds. AOB is any combination of two (2) or more registered breeds. Both beef and dairy cattle may have an AOB category[~~Neither "show" nor "exhibition" nor "show, exhibition, and sale" shall include those held as a part of or in connection with any county or other local fair~~].

(2) ***(a)*** The department shall ***support***[~~aid, encourage, foster, and promote~~] the development and the improvement of the[~~ purebred~~] cattle industry in Kentucky ***by promoting***[~~. To that end, the department shall promote, aid, and assist in the promotion of~~] annual shows and sales of[~~ purebred~~] cattle[~~ in Kentucky~~] with the[~~ object and~~] purpose of establishing Kentucky as one[~~ (1)~~] of the greatest centers in the United States for the breeding, producing, raising, ***exhibiting***[~~exhibition~~], showing, and ***selling***[~~sale~~] of[~~ purebred~~] cattle.[~~ The General Assembly shall make appropriations from the general expenditure fund for each fiscal year to effectuate that purpose.~~]

(b) The General Assembly shall appropriate sufficient amounts from the General Fund in each fiscal year to meet the funding requirements established in subsections (3) to (5) of this section.

(3) ***At least eight thousand five hundred dollars ($8,500)***[~~From the appropriations made pursuant to subsection (2) of this section, six thousand dollars ($6,000)~~] shall be ***appropriated***[~~used and applied~~] in each fiscal year ***for premiums and advertising expenditures for***[~~in~~] each of the following ***registered cattle breeds and other categories***[~~events~~]:

(a) Angus;

(b) Beefalo;

(c) Charolais;

(d) Chi;

(e) Hereford;

(f) Limousin;

(g) Market animals;

(h) Maine;

(i) Pen sale cattle;

(j) Red Angus;

(k) Red Poll;

(l) Salers;

(m) Santa Gertrudis;

(n) Shorthorn;

(o) Simmental;

(p) Ayrshire;

(q) Brown Swiss;

(r) Guernsey;

(s) Holstein;

(t) Milking Shorthorn; and

(u) Jersey[~~ Not less than four thousand dollars ($4,000) nor more than five thousand dollars ($5,000) shall be used and applied to the payment of premiums for the largest purebred Aberdeen Angus, purebred Hereford, purebred Shorthorn, purebred Polled Hereford, purebred Charolais, purebred Jersey, purebred Holstein Friesian, purebred Guernsey, purebred Ayrshire, purebred Simmental, purebred Chianina, purebred Maine Anjou, Murray Grey, purebred Brown Swiss, purebred Limousin, purebred Santa Gertrudis, purebred Beefalo, purebred Red Poll, purebred Brahman, purebred Brangus, and purebred Salers show and sale which may be held in Kentucky in each fiscal year which is open on equal terms and conditions to all breeders in the United States who are eligible to enter any of the above shows and sales. The remainder shall be used and applied by the Commissioner for appropriate advertising of the shows and sales in such livestock journals and other advertising media as the Commissioner may determine~~].

(4) ***If a registered breed from subsection (3) of this section does not have enough entries to meet the minimum number required for a show, then it may combine with one (1) or more other registered breeds to form an AOB category. The AOB shall be funded in an amount equal to eight thousand five hundred dollars ($8,500) from the allocations provided to the registered breeds that created the AOB***[~~Any show, exhibition, and sale of purebred cattle to be eligible to receive the appropriations must provide that the qualifications for entries in any class are equal to the qualifications for entries in~~

~~all other classes receiving appropriations and that entries in all classes are open upon equal terms to the breeders of such cattle in all the states of the United States, and the Dominion of Canada may be included. The Commissioner shall determine, with respect to each of the breeds of cattle, which show, exhibition, and sale is the largest to be held in Kentucky in each year and, in making that determination, he may consider shows, exhibitions, and sales which have been held in Kentucky in any previous year and in any previous two (2) year period~~].

(5) [~~The remainder of the appropriations made pursuant to subsection (2) of this section for each fiscal year shall be used and applied by the department as follows:~~]At least five thousand dollars ($5,000) shall be ***appropriated in each fiscal year to the Kentucky Dairy Nationals Board and at least five thousand dollars ($5,000) shall be appropriated in each fiscal year to the Kentucky Beef Expo Board to help cover facility and event costs***[~~used to add premium money otherwise available for shows and exhibitions of purebred dairy cattle to be held in Kentucky at the places the Commissioner determines; and the remaining balance shall be used and applied by the department in advertising and in promoting the purebred dairy cattle shows and exhibitions in such livestock journals and other advertising media as the Commissioner may determine~~].

(6) ***(a) Only exhibitors participating in the Kentucky Dairy Nationals or the Kentucky Beef Expo are eligible for the funds allocated in subsection (3) of this section;***

(b) Only eligible cattle from the United States and Canada may participate in the Kentucky Dairy Nationals or the Kentucky Beef Expo;

(c) When animals of equal quality are consigned, first consideration shall be given to Kentucky-owned or Kentucky-bred cattle; and

(d) In order to receive funding under subsection (3) of this section, each breed or category shall be required to match its appropriation on a dollar-for-dollar basis[~~No show or exhibition and no show, exhibition, and sale of any purebred cattle shall qualify for or be eligible to receive any part of an appropriation made under this section, unless and until there is provided and made available from other sources an amount for premiums equal to, or in excess of, the respective appropriations made available pursuant to this section for the show or exhibition or show, exhibition, and sale, or unless there is provided and made available from some other source an amount for premiums equal to, or in excess of, the amount which the Commissioner may allocate to or for the show or exhibition or show, exhibition, and sale under the authority vested in him by this section~~].

(7) The department shall promulgate administrative regulations to carry out the provisions of this section.

The Committee Substitute to **HB 203** is as follows:

HB 203, AN ACT relating to show cattle, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.250 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Department" means the Department of Agriculture;

(b) "Commissioner" means the Commissioner of Agriculture;

(c) ***"Registered cattle" means cattle with approved registration papers from an***[~~"Purebred" means registered by the~~] appropriate association, organization***,*** or authority;[~~ and~~]

(d) ***"Pen sale cattle" means uniform groups of commercial or registered beef cattle;***

(e) "Market animals" means beef prospect steers and market heifers; and

(f) "AOB" means all other breeds. AOB is any combination of two (2) or more registered breeds. Both beef and dairy cattle may have an AOB category[~~Neither "show" nor "exhibition" nor "show, exhibition, and sale" shall include those held as a part of or in connection with any county or other local fair~~].

(2) ***(a)*** The department shall ***support***[~~aid, encourage, foster, and promote~~] the development and the improvement of the[~~ purebred~~] cattle industry in Kentucky ***by promoting***[~~. To that end, the department shall promote, aid, and assist in the promotion of~~] annual shows and sales of[~~ purebred~~] cattle[~~ in Kentucky~~] with the[~~ object and~~] purpose of establishing Kentucky as one[~~ (1)~~] of the greatest centers in the United States for the breeding, producing, raising, ***exhibiting***[~~exhibition~~], showing, and ***selling***[~~sale~~] of[~~ purebred~~] cattle.[~~ The General Assembly shall make appropriations from the general expenditure fund for each fiscal year to effectuate that purpose.~~]

(b) The General Assembly shall, if funds are available, appropriate sufficient amounts from the General Fund in each fiscal year to meet the funding requirements established in subsections (3) to (5) of this section.

(3) ***Except as provided in subsection (4) of this section, at least eight thousand five hundred dollars ($8,500)***[~~From the appropriations made pursuant to subsection (2) of this section, six thousand dollars ($6,000)~~] shall be ***appropriated***[~~used and applied~~] in each fiscal year***, if funds are available, for premiums and advertising expenditures for***[~~in~~] each of the following ***registered cattle breeds and other categories***[~~events~~]:

(a) Angus;
(b) Beefalo;
(c) Charolais;
(d) Chi;
(e) Hereford;
(f) Limousin;
(g) Market animals;
(h) Maine;
(i) Pen sale cattle;
(j) Red Angus;
(k) Red Poll;
(l) Salers;
(m) Santa Gertrudis;
(n) Shorthorn;
(o) Simmental;
(p) Ayrshire;
(q) Brown Swiss;
(r) Guernsey;
(s) Holstein;
(t) Milking Shorthorn; and
(u) Jersey~~[Not less than four thousand dollars ($4,000) nor more than five thousand dollars ($5,000) shall be used and applied to the payment of premiums for the largest purebred Aberdeen Angus, purebred Hereford, purebred Shorthorn, purebred Polled Hereford, purebred Charolais, purebred Jersey, purebred Holstein-Friesian, purebred Guernsey, purebred Ayrshire, purebred Simmental, purebred Chianina, purebred Maine Anjou, Murray Grey, purebred Brown Swiss, purebred Limousin, purebred Santa Gertrudis, purebred Beefalo, purebred Red Poll, purebred Brahman, purebred Brangus, and purebred Salers show and sale which may be held in Kentucky in each fiscal year which is open on equal terms and conditions to all breeders in the United States who are eligible to enter any of the above shows and sales. The remainder shall be used and applied by the Commissioner for appropriate advertising of the shows and sales in such livestock journals and other advertising media as the Commissioner may determine]~~.

(4) *(a) If a registered breed from subsection (3) of this section does not have enough entries to meet the minimum number required for a show, then it may combine with one (1) or more other registered breeds to form an AOB category. The AOB shall be funded in an amount equal to eight thousand five hundred dollars ($8,500), if funds are available, from the allocations provided to the registered breeds that created the AOB.*

(b) If a registered breed or other category from subsection (3) of this section has less than fifty (50) entries, that breed or category shall be funded in an amount equal to six thousand five hundred dollars ($6,500) for premiums and advertising expenditures, if funds are available~~[Any show, exhibition, and sale of purebred cattle to be eligible to receive the appropriations must provide that the qualifications for entries in any class are equal to the qualifications for entries in all other classes receiving appropriations and that entries in all classes are open upon equal terms to the breeders of such cattle in all the states of the United States, and the Dominion of Canada may be included. The Commissioner shall determine, with respect to each of the breeds of cattle, which show, exhibition, and sale is the largest to be held in Kentucky in each year and, in making that determination, he may consider shows, exhibitions, and sales which have been held in Kentucky in any previous year and in any previous two (2) year period]~~.

(5) ~~[The remainder of the appropriations made pursuant to subsection (2) of this section for each fiscal year shall be used and applied by the department as follows:]~~At least five thousand dollars ($5,000) shall be *appropriated in each fiscal year, if funds are available, to the Kentucky Dairy Nationals Board and at least five thousand dollars ($5,000) shall be appropriated in each fiscal year to the Kentucky Beef Expo Board to help cover facility and event costs*~~[used to add premium money otherwise available for shows and exhibitions of purebred dairy cattle to be held in Kentucky at the places the Commissioner determines; and the remaining balance shall be used and applied by the department in advertising and in promoting the purebred dairy cattle shows and exhibitions in such livestock journals and other advertising media as the Commissioner may determine]~~.

(6) *(a) Only exhibitors participating in the Kentucky Dairy Nationals or the Kentucky Beef Expo are eligible for the funds appropriated in subsection (3) or (4) of this section;*

(b) Only eligible cattle from the United States and Canada may participate in the Kentucky Dairy Nationals or the

Kentucky Beef Expo;

(c) When animals of equal quality are consigned, first consideration shall be given to Kentucky-owned or Kentucky-bred cattle; and

(d) In order to receive funding under subsection (3) or (4) of this section, each breed or category shall be required to match its appropriation on a dollar-for-dollar basis[~~No show or exhibition and no show, exhibition, and sale of any purebred cattle shall qualify for or be eligible to receive any part of an appropriation made under this section, unless and until there is provided and made available from other sources an amount for premiums equal to, or in excess of, the respective appropriations made available pursuant to this section for the show or exhibition or show, exhibition, and sale, or unless there is provided and made available from some other source an amount for premiums equal to, or in excess of, the amount which the Commissioner may allocate to or for the show or exhibition or show, exhibition, and sale under the authority vested in him by this section~~].

(7) The department shall promulgate administrative regulations to carry out the provisions of this section.

The Committee Amendment No. 1 Title to **HB 203** is as follows:

HB 203, Amend the title to read as follows: "AN ACT relating to show cattle.".

HB 231, AN ACT relating to coyotes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) No person shall buy or sell a live coyote within the Commonwealth, except as provided by this section and as set forth in administrative regulations.

(2) No person shall import or cause to have imported a live coyote into the Commonwealth, except as provided by administrative regulations.

(3) No person shall purchase or sell a live coyote without purchasing a permit issued by the commissioner. The conditions of the permit, and its fee, shall be determined by administrative regulations. Any person that traps coyotes for commercial sale shall possess a valid trapping license.

(4) No person shall sell live coyotes, except during the furbearer trapping season, unless the seller is a licensed nuisance wildlife control operator. Licensed nuisance wildlife control operators may sell live coyotes year-round.

(5) All persons who are legally permitted to buy or sell live coyotes shall complete and submit an annual activity report on a form provided by the department.

(6) Notwithstanding any other provisions of this chapter, the commissioner may halt the sale and transportation of live coyotes in the Commonwealth in the event of a documented disease outbreak that threatens the wildlife resources of the Commonwealth.

(7) The department may require permit holders to submit coyotes for rabies testing if the coyotes were taken by hounds during chase.

Section 2. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) (a) Any person who fails to appear pursuant to a citation or summons issued by a conservation officer or peace officer of this Commonwealth for violation of this chapter or any administrative regulation promulgated thereunder shall forfeit his or her license or, if that person is license-exempt, shall forfeit the privilege to perform the acts authorized by the license. The individual shall not be permitted to purchase another license or exercise the privileges granted by a license until the citation or summons is resolved. The court shall notify the department whenever a person has failed to appear pursuant to a citation or summons for a violation of this chapter or any administrative regulation promulgated thereunder.

(b) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license or, if that person is license-exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, 150.660, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), 150.235(2), (3), or (4), or 150.363 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500); and for any subsequent offense, be fined two thousand dollars ($2,000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of this subsection shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or KRS 150.450(2) or (3) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of KRS 150.092(4) shall be liable to the landowner or occupant for reasonable compensation for damages. Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license or, if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than

one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.

(16) Any person who violates any provision of Section 1 of this Act or any administrative regulations promulgated under Section 1 of this Act for which no other penalty is specified elsewhere in this section shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned for no more than one (1) year. A person convicted for a second offense shall be fined five thousand dollars ($5,000) or imprisoned for no more than two (2) years, and shall become permanently ineligible to renew or obtain another permit to purchase or sell live coyotes.

HB 399, AN ACT relating to fertilizer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.270 is amended to read as follows:

(1) The Commonwealth of Kentucky hereby determines that the citizens of the state benefit from a system of safe, effective, and scientifically sound ***fertilizer and*** pesticide regulation on agricultural and silvicultural land. The Commonwealth further finds that a system of ***fertilizer and*** pesticide regulation which is consistent, coordinated, and comports with both federal and state technical expertise is essential to the public health, safety, and welfare, and that local regulation of ***fertilizer and*** pesticides does not materially assist in achieving these benefits.

(2) No city, town, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation regarding agriculture and silviculture ***fertilizer and*** pesticide sale or use, including without limitation: registration, notification of use, advertising and marketing distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.

(3) Nothing in this section shall be construed to abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program.

SECTION 2. A NEW SECTION OF KRS 250.361 TO 250.451 IS CREATED TO READ AS FOLLOWS:

(1) No city, town, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation regarding the registration, packaging, labeling, sale, storage, distribution, use, and application of fertilizers. Local legislation in violation of this section is void and unenforceable.

(2) Nothing in this section shall be construed to abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state-or-federal-mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program.

HCR 47, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Agriculture and Natural Resources to investigate the necessity of a State Rural Development Council that would review and implement rural development policies to improve the quality of life for citizens in the rural areas of Kentucky.

WHEREAS, rural development councils have access to federal funding as a result of the 2002 Farm Bill; and

WHEREAS, rural development councils implement and review rural development programs and consider rural development policies that could improve the quality of life for citizens in the rural areas of their states; and

WHEREAS, rural development councils include federal, state, and local government representatives, and representatives of for-profit and nonprofit organizations; and

WHEREAS, rural development councils work to improve relationships among governmental and nongovernmental agencies and improve coordination across agency boundaries on policymaking and program implementation; and

WHEREAS, rural development councils encourage intergovernmental partnerships by emphasizing local community participation, technical assistance, and information gathering; and

WHEREAS, rural development councils develop demonstration projects, create databases, identify new funding sources, and participate in cooperative ventures, outreach programs, and leadership development;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Agriculture and Natural Resources shall investigate the feasibility of creating a State Rural Development Council to review and implement rural development policies that could improve the quality of life for citizens in the rural areas of Kentucky.

Section 2. Rural issues to be reviewed by the committee shall include but not be limited to the following:

(a) Job creation;

(b) Infrastructure development, including telecommunications and broadband access; and

(c) Improvements in health care, education, agriculture, and transportation services.

Section 3. The committee may:

(a) Identify and contact organizations that have rural development programs within the state, both governmental and nongovernmental, and complete a comprehensive inventory of those programs and their functions;

(b) Receive testimony from representatives of organizations having rural development programs to determine what coordination exists among the organizations, and to better understand the needs of Kentucky's rural areas;

(c) Explore the potential organizational structure of a federally recognized State Rural Development Council, and determine the steps required for its creation;

(d) Consider the creation of a group that advocates for rural development within Kentucky; and

(e) Recommend legislation to:

1. Coordinate and streamline existing state rural development programs and polices for improved efficiency;

2. Facilitate collaboration among federal, state, and local government agencies, both urban and rural; the private sector; and nonprofit groups in the planning and implementation of programs and policies that affect Kentucky's rural areas; and

3. Promote effective development and sustained growth within rural areas of the Commonwealth.

Section 4. The Interim Joint Committee on Agriculture and Natural Resources shall report its findings and recommendations to the Legislative Research Commission by November 30, 2007.

Section 5. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 127, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study how workers who are not citizens of the United States affect Kentucky's labor market and how the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could be utilized to address the issue of labor shortages in Kentucky.

WHEREAS, segments of Kentucky's business sectors, particularly in the agricultural sector, are experiencing labor shortages; and

WHEREAS, employing noncitizen workers in such areas as professional services, construction, and agriculture could benefit Kentucky's economy; and

WHEREAS, understanding and complying with federal and state laws relating to employing noncitizen workers is critical for the employers of our state; and

WHEREAS, Kentucky has an office in Guadalajara that is active in promoting trade between Mexico and Kentucky; and

WHEREAS, the Mexico office could possibly serve as a clearinghouse to help assist in the process of providing noncitizen workers to areas of our state where there are labor shortages;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to study how workers who are not citizens of the United States affect Kentucky's labor market and how the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could be utilized to address the issue of labor shortages in Kentucky. The study shall include but not be limited to:

(1) Describing federal laws and regulations associated with the employment of noncitizen workers in the United States;

(2) Describing how Kentucky employers are currently utilizing noncitizen workers;

(3) Examining the impact that hiring noncitizen workers has on the state's economy;

(4) Examining the impact that hiring noncitizen workers has on labor market shortages;

(5) Examining the impact that hiring noncitizen workers has on domestic workers; and

(6) Identifying issues relating to whether the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could facilitate the recruitment of noncitizen workers to address labor shortages in Kentucky.

Section 2. The study shall address the issues described in Section 1 of this Resolution as they relate to Kentucky's labor market in general, and shall specifically address how the issues relate to the agricultural labor market.

Section 3. Staff shall report the results of the study to the Legislative Research Commission for referral to the appropriate interim joint committee or committees prior to the 2008 Regular Session of the General Assembly.

Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Banking and Insurance reported **HB 83** and **HB 366** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 83, AN ACT relating to fiduciaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 395.610 is amended to read as follows:

(1) Two (2) years after appointment and annually thereafter, unless otherwise provided by law, every fiduciary as defined in KRS 395.001, other than a testamentary trustee ***that is a bank or trust company*** or a guardian or conservator of a mentally disabled person, shall render an account of the execution of his trust to the court by which he was appointed, including in the account an itemized statement of receipts and disbursements supported by vouchers accompanying the account and a statement of all investments on hand and changes in investments since the filing of his last account. The settlements, when approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by the fiduciary at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affidavit. At the expiration of his trust, the fiduciary shall fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary, except of corporate fiduciaries under the supervision of state or federal banking authorities, shall be approved until there are exhibited to the court, for its examination, the security or securities shown in the account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

(2) Testamentary trustees ***that are banks or trust companies*** and guardians and conservators of mentally disabled persons shall not be required to render accountings to the court under the provisions of this section. However, trustees may be required to file accounts pursuant to judicial proceedings under KRS 386.675. Guardians and conservators of mentally disabled persons shall comply with the reporting requirements of KRS Chapter 387.

HB 366, AN ACT relating to industrial loan corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 286.7-410 TO 286.7-600 IS CREATED TO READ AS FOLLOWS:

As used in this section, unless the context otherwise requires:

(1) "Affiliate" shall have the same meaning as set forth in Section 1841(k) of the Federal Bank Holding Company Act of 1956, 12 U.S.C. sec. 1841, et seq., as amended.

(2) "Commercial activity" means any activity in which under federal law a bank holding company, a financial holding company, a national bank, or a national bank subsidiary may not engage.

(3) "Industrial loan company" means any industrial loan company, industrial bank, or similar organization organized under the provisions of KRS 286.7-410 to 286.7-600 or under the laws of the United States, any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(4) Except for those persons, approved by the executive director prior to the effective date of this Act, with an industrial loan company office in the Commonwealth of Kentucky as of the effective date of this Act:

(a) No industrial loan company shall establish or maintain an office in the Commonwealth of Kentucky if that industrial loan company has an affiliate that engages in commercial activity; and

(b) Except for those offices established as of the effective date of this Act, no industrial loan company which is an affiliate of a company that engages in commercial activity shall maintain an office in the Commonwealth of Kentucky on the premises or the property of an affiliate.

(5) No industrial loan company shall establish or operate an office in the Commonwealth of Kentucky:

(a) Unless it complies with the provisions of KRS 286.7-410 to 286.7-600; or

(b) If it receives or accepts deposits.

The Committee on Appropriations and Revenue reported **HB 6, HB 75, HB 184,** with Committee Substitute attached thereto, **HB 185,** with Committee Substitute and Committee Amendment attached thereto, **HB 258, HB 262,** with Committee Substitute attached thereto, **HB 291,** with Committee Substitute attached thereto, **HB 312, HB 321, HB 326,** with Committee Substitute and Committee Amendment attached thereto, **HB 332,** and **HB 360,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT creating the Kentucky Family Trust Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares the following:

(a) It is an essential function of state government to provide basic support for persons with a mental or physical impairment that substantially limits one (1) or more major life activities, whether the impairment is congenital or acquired by accident, injury, or disease;

(b) The cost of providing basic support for persons with a mental or physical impairment is difficult for many to afford and they are forced to rely upon the government to provide this support;

(c) Families and friends of persons with a mental or physical impairment desire to supplement, but not replace, the basic support provided by state government and other governmental programs;

(d) The cost of medical, social, or other supplemental services is often provided by families and friends of persons with mental or physical impairments, for the lifetime of these persons;

(e) It is in the best interest of the people of this state to encourage, enhance, and foster the ability of families and friends of Kentucky residents and residents of adjacent states with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide for medical, social, or other supplemental services for such persons;

(f) Permitting and assisting families and friends of Kentucky residents and residents of adjacent states with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide medical, social or other supplemental services for the persons as necessary and desirable for the public health, safety, and welfare of this state.

(2) In light of the findings and declarations described in subsection (1) of this section, the General Assembly declares the purpose of the Kentucky family trust program to be the encouragement, enhancement and fostering of the provision of medical, social or other supplemental services for persons with a mental or physical impairment by family and friends of such persons.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act;

(1) "Board of trustees" means the Kentucky Family Trust Program board of trustees;

(2) "Charitable trust" means the trust established to provide benefits for individuals, as set forth in Section 3 of this Act;

(3) "Department" means the Department for Mental Health and Mental Retardation Services;

(4) "Disability" means a mental or physical impairment that substantially limits one (1) or more major life activities, whether the impairment is congenital or acquired by accident, injury, or disease, and where the impairment is verified by medical findings;

(5) "Life beneficiary" or "beneficiary" means a designated beneficiary of the Kentucky family trust;

(6) "Net income" means the earnings received on investments less administrative expenses and fees;

(7) "Principal balance" means the fair market value of all contributions made to a particular account, less distributions, determined as of the end of the calendar month immediately preceding the occurrence giving rise to any determination of principal balance;

(8) "Requesting party" means the party desiring arbitration;

(9) "Responding party" means the other party in arbitration of a dispute regarding benefits to be provided by the trust;

(10) "Successor trust" means the trust established upon distribution by the board of trustees pursuant to notice of withdrawal or termination and administered as set forth in Section 6 of this Act;

(11) "Trust" means the Kentucky family trust established pursuant to Sections 1 to 7 of this Act; and

(12) "Trustee" means a member of the Kentucky family trust board of trustees.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The families, friends and guardians of persons who have a disability or are eligible for services provided by the Department for Mental Health and Mental Retardation Services, or both, may participate in a trust which may supplement the care, support, and treatment of these persons pursuant to Sections 1 to 7 of this Act. Neither the contribution to the trust for the benefit of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce, impair, or diminish the benefits to which the person is otherwise entitled by law. The administration of the

trust shall not be taken into consideration in appropriations for the department or any other agency of state or local government in rendering services required by law.

(2) Unless otherwise prohibited by federal statutes or regulations, all state and local agencies shall disregard the trust as a resource when determining eligibility of Kentucky residents for assistance.

(3) The assets of the board of trustees and assets held in trust pursuant to Sections 1 to 7 of this Act shall not be considered state money, assets of the state, or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The "Kentucky Family Trust Board of Trustees" is hereby created and shall be a body corporate and an instrumentality of the state. The board of trustees shall consist of nine (9) persons appointed by the Governor with the advice and consent of the Senate. The members' terms of office shall be three (3) years and until their successors are appointed and qualified. The trustees shall be persons who are not prohibited from serving by law and who are not otherwise employed by the Department for Mental Health and Mental Retardation Services. The board of trustees shall be composed of the following:

(a) Three (3) members of the immediate family of persons who have a disability or are the recipients of services provided by the department in the treatment of mental illness. The Kentucky Commission for Children with Special Health Care Needs shall submit a panel of nine (9) names to the Governor, from which he shall appoint three (3). One (1) shall be appointed for a term of one (1) year, one (1) for two (2) years, and one (1) for three (3) years. Thereafter, as the term of a trustee expires each year, the Kentucky Commission for Children with Special Health Care Needs shall submit to the governor a panel of not less than three (3) nor more than five (5) proposed trustees, and the Governor shall appoint one (1) trustee from the panel for a term of three (3) years;

(b) Three (3) members of the immediate family of persons who are recipients of services provided by the department in the habilitation of the mentally retarded or developmentally disabled. The head of the department shall submit a panel of nine (9) names to the Governor, from which he shall appoint three (3). One (1) shall be appointed for one (1) year, one (1) for two (2) years, and one (1) for three (3) years. Thereafter, as the term of a trustee expires each year, the head of the department shall submit to the Governor a panel of not less than three (3) nor more than five (5) proposed trustees, and the Governor shall appoint one (1) trustee from the panel for a term of three (3) years; and

(c) Three (3) persons who are recognized for their expertise in general business matters and procedures. Of the three (3) business people to be appointed by the Governor, one (1) shall be appointed for one (1) year, one (1) for two (2) years, and one (1) for three (3) years. Thereafter, as the term of a trustee expires each year, the Governor shall appoint one (1) business person as trustee for a term of three (3) years.

(2) The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

(3) As used in this section, the term "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

(4) The board of trustees shall be subject to the provisions of the Kentucky Open Meetings Act.

(5) The board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a copy of the accounting to the Governor and the Legislative Research Commission.

(6) The board of trustees shall promulgate administrative regulations necessary to implement the provisions of Sections 1 to 7 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) No beneficiary shall have any vested or property rights or interests in the family trust, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the family trust, nor shall the income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the beneficiary, nor shall the principal or income of the family trust be subject to seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

(2) Except for the right of a donor to revoke any gift made to the trust, pursuant to Section 6 of this Act, and the right of any acting cotrustee, other than the original donor, to withdraw all or a portion of the principal balance, pursuant to Section 6 of this Act, neither the donor nor any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the family trust, nor shall the income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or proceeding in law or in equity.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees is authorized and directed to establish and administer the Kentucky family trust program and to advise, consult with, and render services to departments and agencies of the Commonwealth of Kentucky and to other

nonprofit organizations which provide services to Kentucky residents with a disability. The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not-for-profit corporation created pursuant to KRS Chapter 273 and the contracting for professional investment services.

(2) The trust documents shall include and be limited by the following provisions:

(a) The Kentucky family trust shall be authorized to accept contributions from any source including trustees, personal representatives, guardians and conservators, and other fiduciaries, and, subject to the provisions of paragraph (k) of this subsection, from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a disability or are eligible for services provided by the department, or both, while maintaining the eligibility of these individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned, after deducting administrative expenses, shall be credited to the accounts of the respective life beneficiaries in proportion to the principal balance in the account for each such life beneficiary, to the total principal balances in the accounts for all life beneficiaries;

(b) Every donor may designate a specific person as the life beneficiary of the contribution made by the donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary. But, a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee and court approval of the specific person designated as life beneficiary and as cotrustee or successor trustee shall be required in connection with any trust created by a guardian or conservator, or in accordance with the administration of an estate;

(c) The cotrustee, with the consent of the trust, shall from time to time but not less frequently than annually determine the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. If the trust and the cotrustee are unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration which shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The requesting party shall send a written request for arbitration to the responding party and shall in this request set forth the name, address, and telephone number of the requesting party's arbitrator. The responding party shall, within ten (10) days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address, and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the head of the department. If the two (2) designated arbitrators are unable to agree upon a third arbitrator within ten (10) days after the responding party has identified that party's arbitrator, then the head of the department shall designate the third (3) arbitrator by written notice to the requesting and responding parties' arbitrators. The three (3) arbitrators shall meet, conduct a hearing, and render a decision within thirty (30) days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of that party's own arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties. Judgment on the arbitrators' award may be entered in any court of competent jurisdiction;

(d) Any donor, during his or her lifetime, except for a trust created pursuant to the administration of an estate or otherwise designated as irrevocable, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. If at the time the donor has revoked his or her gift to the trust the life beneficiary has not received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent (100%) of the principal balance shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. If at the time the donor has revoked his or her gift to the trust the life beneficiary has received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent (90%) of the principal balance shall be returned to the donor. The balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(e) Any acting cotrustee, except a cotrustee of a trust created pursuant to the administration of an estate, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating that reason, to withdraw all or a portion of the principal balance. In that event, the applicable portion, as set forth in paragraph (g) of this subsection, of the principal balance shall then be distributed to the successor trust and the balance of the principal balance together with any undistributed net income shall be distributed to the charitable trust;

(f) If a life beneficiary for whose benefit a contribution or contributions have been made to the family trust ceases to be eligible for services provided by the department and neither the donor nor the then-acting cotrustee, except a cotrustee of a trust created pursuant to the administration of an estate, has revoked or withdrawn the applicable portion, as set for in paragraph (g) of this subsection, of the principal balance, then the board of trustees may, by written notice to the donor or acting cotrustee, terminate the trust as to that beneficiary and thereupon shall distribute the applicable portion, as set forth in paragraph (g) of this subsection, of the

principal balance, to the trustee of the successor trust to be held, administered, and distributed by the trustee in accordance with the provisions of the successor trust described in paragraph (l) of this subsection;

(g) If at the time of withdrawal or termination as provided in paragraph (f) of this subsection of a life beneficiary's account from the trust either the life beneficiary has not received any benefits provided by the use of the trust income or principal or the life beneficiary has received benefits provided by the use of trust income or principal for a period of not more than five (5) years from the date a contribution was first made to the trust for the life beneficiary, then an amount equal to ninety percent (90%) of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust. But, if the life beneficiary at the time of the withdrawal by the cotrustee or termination as provided in this paragraph has received any benefits provided by the use of trust income or principal for a period of more than five (5) years from the date a contribution was first made to the trust for the life beneficiary, then an amount equal to seventy-five percent (75%) of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(h) Subject to the provisions of paragraph (i) of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent (100%) of the principal balance shall be distributed to those persons that the donor has designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary has been receiving benefits provided by the use of trust income, or principal, or income and principal, then an amount equal to seventy-five percent (75%) of the principal balance shall be distributed to those persons that the donor has designated, and the balance of the principal balance, together with all undistributed net income, shall be distributed to the charitable trust;

(i) If the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent (100%) of the principal balance shall be distributed to those persons who are the life beneficiary's heirs-at-law. Any undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary has been receiving benefits provided by the use of trust income, or principal, or income and principal, then an amount equal to seventy-five percent (75%) of the principal balance shall be distributed to those persons who are the life beneficiary's heirs-at-law. The balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs at the time of either such distribution, the then-principal balance together with all undistributed income shall be distributed to the charitable trust;

(j) If the trust is created as a result of the recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the Commonwealth of Kentucky shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of the life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to one hundred percent (100%) of the principal balance shall be distributed to those persons who are the life beneficiary's heirs-at-law. If there are no heirs, the balance, if any, of the principal balance together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary has been receiving benefits provided by the use of trust income, or principal, or income and principal, then the Commonwealth of Kentucky shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of the life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent (75%) of the principal balance shall be distributed to those persons who are the life beneficiary's heirs-at-law and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs, the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust;

(k) If an account is established with the assets of the beneficiary by the beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all in accordance with 42 U.S.C. sec. 1396p(d)(4)(c), then upon the death of the life beneficiary the Commonwealth of Kentucky shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of the life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent (75%) of the principal balance shall be distributed to those persons who are the life beneficiary's heirs-at-law and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs, the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust;

(l) Notwithstanding the provisions of paragraphs (d) to (h) of this subsection to the contrary, the donor may voluntarily agree to a smaller percentage of the principal balance in any account established by the donor than

is provided in this subsection to be returned to the donor or distributed to the successor trust, as the case may be; and a corresponding larger percentage of the principal balance in such account to be distributed either to the charitable trust or to a designated restricted account within the charitable trust;

(m) Upon receipt of a notice of withdrawal from a designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for the withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the designated trustee of the successor trust the applicable portion of the principal balance as set forth in paragraph (h) of this subsection. But, court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to the administration of an estate. The designated trustee of the successor trust shall hold, administer, and distribute the principal and income of the successor trust, in the discretion of the trustee, for the maintenance, support, health, education, and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which the beneficiary may be entitled and to increase the quality of the beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include but are not limited to more sophisticated dental, medical, and diagnostic work or treatment than is otherwise available from public assistance; private rehabilitative training; supplementary education aid; entertainment; periodic vacations and outings; expenditures to foster the interests, talents and hobbies of the beneficiary; and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his or her discretion, may make payments from time to time for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter, and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to those persons that the donor has designated;

(n) The charitable trust shall be administered as part of the family trust, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a disability or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility for government entitlement funding. The trustees may from time to time determine to use part of the principal of the charitable trust to provide these benefits. As used in this section, the term "immediate family" includes parents, children, and siblings. The individuals to be beneficiaries of the charitable trust shall be recommended to the trustees by the department and others from time to time. The trustees shall annually determine the amount of charitable trust income or principal to be used to provide benefits and the nature and type of benefits to be provided for each identified beneficiary of the charitable trust. Any income not used shall be added to principal annually; and

(o) Any person, with the consent of the board of trustees, may establish a restricted account within the charitable trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of the restricted account provided the beneficiaries qualify as participants of the trust as set forth in Sections 1 to 7 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

No trustee, cotrustee, or successor cotrustee serving pursuant to the provisions of Sections 1 to 7 of this Act shall at any time be held liable for any mistake of law or fact, or of both law and fact, or errors of judgment, nor for any loss sustained by the trust estate or by any beneficiary under the provisions of Sections 1 to 7 of this Act, or by any other person, except through actual fraud or willful misconduct on the part of the trustee, cotrustee, or successor cotrustee.

Section 8. The provisions of Sections 1 to 7 of this Act shall be effective upon a determination by the Department for Mental Health and Mental Retardation Services and notification to the reviser of statutes that there has been federal legislative or administrative assurance that participation in the trust as established in this Act will not jeopardize a beneficiary's eligibility for public assistance and will not reduce the payment of covered services for which the beneficiary is eligible, and not otherwise.

HB 75, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.495 is amended to read as follows:

The taxes imposed by this chapter shall apply to resident, nonprofit educational, charitable, and religious institutions which have qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code as follows:

(1) Tax does not apply to sales of tangible personal property or services to such institutions provided the property or service is to be used solely within the educational, charitable, or religious function.

(2) Tax does not apply to sales of food to students in school cafeterias or lunchrooms.

(3) Tax does not apply to sales by school bookstores of textbooks, workbooks, and other course materials.

(4) ***Tax does not apply to sales by churches for fund-raising activities.***

(5) Tax does not apply to sales by nonprofit, school sponsored clubs and organizations, provided such sales do not include tickets for athletic events.

(6)[~~(5)~~] An institution shall be entitled to a refund equal to twenty-five percent (25%) of the tax collected on its sale of donated goods if the refund is used exclusively as reimbursement for capital construction costs of additional retail locations in this state, provided the institution:

(a) Routinely sells donated items;

(b) Provides job training and employment to individuals with workplace disadvantages and disabilities;

(c) Spends at least seventy-five percent (75%) of its annual revenue on job training, job placement, or other related community services;

(d) Submits a refund application to the department within sixty (60) days after the new retail location opens for business; and

(e) Provides records of capital construction costs for the new retail location and any other information the department deems necessary to process the refund.

The maximum refund allowed for any location shall not exceed one million dollars ($1,000,000). As used in this subsection, "capital construction cost" means the cost of construction of any new facilities or the purchase and renovation of any existing facilities, but does not include the cost of real property other than real property designated as a brownfield site as defined in KRS 65.680(4).

(7)[~~(6)~~] Notwithstanding any other provision of law to the contrary, refunds under subsection ***(6)***[~~(5)~~] of this section shall be made directly to the institution. Interest shall not be allowed or paid on the refund. The department may examine any refund within four (4) years from the date the refund application is received. Any overpayment shall be subject to the interest provisions of KRS 131.183 and the penalty provisions of KRS 131.180.

(8)[~~(7)~~] All other sales made by nonprofit educational, charitable, and religious institutions are taxable and the tax may be passed on to the customer as provided in KRS 139.210.

Section 2. KRS 139.496 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed herein do not apply to the first one thousand dollars ($1,000) of sales made in any calendar year by individuals or nonprofit organizations not engaged in the business of selling. This exemption is limited to the following types of transactions or activities:

(a) Garage or yard sales of household items by an individual or family which are in no way associated with or related to the operation of a business;

(b) Fundraising event held by nonprofit civic, governmental, or other nonprofit organizations, except as set forth in KRS ***139.495(4) and*** 139.497.

(2) The exemption does not apply to activities in which all or substantially all the household goods of a person are offered for sale or where nonprofit organizations conduct regular selling activities in competition with private business.

Section 3. This Act takes effect July 1, 2007.

HB 184, AN ACT relating to the branch budget bills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.310 is amended to read as follows:

(1) ***Except as provided in subsection (3) of this section,*** no provision of a branch budget bill shall be effective beyond the second fiscal year from the date of its enactment. A ***branch*** budget bill enacted at a special session or in an odd-numbered-year regular session of the General Assembly shall not be effective past July 1 of the year in which the next even-numbered-year regular session takes place.

(2) A ***branch*** budget bill may contain language which ***suspends one (1) or more statutes by exempting***[~~exempts~~] the ***branch*** budget bill or any ***provision***[~~appropriation or the use~~] thereof from the operation of ***the***[~~a~~] statute for the effective period of the ***branch*** budget bill. ***A branch budget bill may also contain language which modifies one (1) or more statutes for the effective period of the branch budget bill. The suspended or modified statute need not be set out at length but may be introduced by "notwithstanding" or other language sufficient to identify the affected statute.***

(3) A branch budget bill may amend, create, repeal, or repeal and reenact any statute beyond the effective period of the branch budget bill described in subsection (1) of this section. If it is the intent of the General Assembly that language

amending, creating, repealing, or repealing and reenacting a statute be effective beyond the effective period of the branch budget bill described in subsection (1) of this section, then the amendment, creation, repeal, or repeal and reenactment of the statute shall be set forth at length and shall comply with the provisions of KRS 446.145.

Section 2. KRS 48.316 is amended to read as follows:

To the extent that the provisions of a budget bill are in conflict with any provisions of ***the Kentucky Revised Statutes***[~~KRS Chapters 12, 42, 56, 152, 177, or 341~~], the provisions of those ***statutes***[~~chapters~~] are[~~ hereby~~] suspended or modified. Such suspension or modification shall not extend beyond the duration of the budget bill.

Section 3. The provisions of this Act shall apply retroactively to branch budget bills making appropriations for the Executive Branch of government for fiscal years 2004-2005 and 2005-2006 enacted at the 2005 Regular Session (HB 267), making appropriations for the Judicial Branch of government for fiscal years 2006-2007 and 2007-2008 enacted at the 2006 Regular Session (HB 382), and making appropriations for the Executive Branch of government for fiscal years 2005-2006, 2006-2007, and 2007-2008 enacted at the 2006 Regular Session (HB 380).

The Committee Substitute to **HB 184** is as follows:

HB 184, AN ACT relating to the branch budget bills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.310 is amended to read as follows:

(1) ***Except as provided in subsection (3) of this section,*** no provision of a branch budget bill shall be effective beyond the second fiscal year from the date of its enactment. A ***branch*** budget bill enacted at a special session or in an odd-numbered-year regular session of the General Assembly shall not be effective past July 1 of the year in which the next even-numbered-year regular session takes place.

(2) A ***branch*** budget bill may contain language which ***suspends one (1) or more statutes by exempting***[~~exempts~~] the ***branch*** budget bill or any ***provision***[~~appropriation or the use~~] thereof from the operation of ***the***[~~a~~] statute for the effective period of the ***branch*** budget bill. ***A branch budget bill may also contain language which modifies one (1) or more statutes for the effective period of the branch budget bill. The suspended or modified statute need not be set out at length but may be introduced by "notwithstanding" or other language sufficient to identify the affected statute.***

(3) A branch budget bill may amend, create, repeal, or repeal and reenact any statute beyond the effective period of the branch budget bill described in subsection (1) of this section. If it is the intent of the General Assembly that language amending, creating, repealing, or repealing and reenacting a statute be effective beyond the effective period of the branch budget bill described in subsection (1) of this section, then the amendment, creation, repeal, or repeal and reenactment of the statute shall be set forth at length and shall comply with the provisions of subsections (1) to (6) of Section 3 of this Act.

Section 2. KRS 48.316 is amended to read as follows:

To the extent that the provisions of a budget bill are in conflict with any provisions of ***the Kentucky Revised Statutes***[~~KRS Chapters 12, 42, 56, 152, 177, or 341~~], the provisions of those ***statutes***[~~chapters~~] are[~~ hereby~~] suspended or modified. Such suspension or modification shall not extend beyond the duration of the budget bill.

SECTION 3. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

(1) Except for provisions concerning effective dates, required votes for passage, and permitted gubernatorial action, the Constitution of Kentucky treats an appropriations bill, including a bill commonly referenced as a "branch budget bill," the same as any other bill. The Constitution of Kentucky, therefore, permits the General Assembly to suspend, modify, amend, create, repeal, or repeal and reenact provisions in an appropriations bill, including a bill commonly referenced as a "branch budget bill."

(2) Other limitations or special provisions regarding an appropriations bill, including a bill commonly referenced as a "branch budget bill," are self-imposed by a prior General Assembly, are statutory in nature, and may be suspended, modified, amended, or repealed by a future General Assembly.

(3) At the time the Supreme Court of Kentucky decided Armstrong v. Collins, the General Assembly had enacted a statutory limitation relating to the suspension or modification of statutes in the budget bill that required a finding that "the financial condition of state government requires such suspension or modification." In 1994, the General Assembly repealed the provisions that required the finding. Thus, the statutory requirement that the General Assembly find that the financial condition of the Commonwealth warrants a modification or suspension of statutory language in the budget bill no longer exists.

(4) One (1) session of the General Assembly cannot bind a future General Assembly. Therefore, consistent with the provisions of this chapter, if an enacted appropriations bill, including a bill commonly referenced as a "branch budget bill," contradicts a limitation established by a prior General Assembly in KRS Chapter 48 or any other chapter, the later enacted appropriations bill shall prevail.

Section 4. KRS 446.145 is amended to read as follows:

(1) Bills amending an existing section of the statutes shall indicate the material proposed to be deleted by brackets and by striking through the material.

(2) Bills amending an existing section of the statutes shall indicate new material by underlining.

(3) Bills creating a new section of the statutes shall begin with the phrase "A NEW SECTION OF KRS CHAPTER --- IS CREATED TO READ AS FOLLOWS:" and shall contain underlining of all material in the section.

(4) Bills repealing a section of the statutes shall list the statute number and headnote.

(5) (a) Bills repealing and reenacting a section of the statutes without change from the text of that statute as it read at the time of its repeal shall begin with the phrase "KRS --- is repealed and reenacted (or "reenacted as a new section of KRS Chapter ---", if appropriate) to read as follows:" and shall not contain underlining of the reenacted text.

(b) Bills repealing and reenacting a section of the statutes with changes from the text of that statute as it read at the time of its repeal shall begin with the phrase "KRS --- is repealed, reenacted (or "reenacted as a new section of KRS Chapter ---", if appropriate), and amended to read as follows:", shall indicate the material proposed to be deleted by brackets and by striking through the material, and shall indicate new material by underlining.

(c) Bills repealing and reenacting a section of the statutes with text totally different from the text of that statute as it read at the time of its repeal or so substantially different that using the procedure set out in paragraph (b) of this subsection is impracticable shall begin with the phrase "KRS --- IS REPEALED AND REENACTED (or "REENACTED AS A NEW SECTION OF KRS CHAPTER ---", if appropriate) TO READ AS FOLLOWS:" and shall indicate the reenacted text of the statute by underlining.

(6) Sections of a bill not intended to be codified shall begin simply with the section number within the bill without any further introductory phrase, and the text of those sections shall be in normal type and not in all capitals or with underlining. These not-to-be-codified sections shall ordinarily be placed at the end of the bill or, in a bill having multiple parts, at the end of a particular part of that bill. Unless expressly drafted in a manner indicating codification is intended or unless determined by the reviser of statutes that codification is appropriate and necessary, the following material shall not be codified, in conformity with KRS 7.131(3):

(a) Repealers and repeals of repealers;

(b) Appropriation provisions;

(c) Temporary provisions;

(d) Construction clauses, including severability clauses;

(e) A short title, if necessary, for an act that is not a distinct codifiable unit; and

(f) Effective date provisions.

(7) A branch budget bill, as defined in KRS 48.010, may suspend or modify one (1) or more statutes for the effective period of the branch budget bill and may amend, create, repeal, or repeal and reenact any statute. The manner in which such changes shall be accomplished is set forth in Section 1 of this Act.

Section 5. The provisions of this Act shall apply retroactively to branch budget bills making appropriations for the Executive Branch of government for fiscal years 2004-2005 and 2005-2006 enacted at the 2005 Regular Session (HB 267), making appropriations for the Judicial Branch of government for fiscal years 2006-2007 and 2007-2008 enacted at the 2006 Regular Session (HB 382), and making appropriations for the Executive Branch of government for fiscal years 2005-2006, 2006-2007, and 2007-2008 enacted at the 2006 Regular Session (HB 380).

HB 185, AN ACT relating to a cardiovascular disease initiative and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) Cardiovascular disease is the leading cause of death of Kentuckians and is the leading cause of death in every county in Kentucky;

(2) Early identification and early treatment of cardiovascular disease is effective and can save lives;

(3) An initiative on cardiovascular disease consisting of, but not limited to, research, outreach, early identification, education, and follow up for persons affected by cardiovascular disease is needed throughout the entire state; and

(4) The involvement of the Department of Innovation and Commercialization for a Knowledge Based Economy and its centers, the Council on Postsecondary Education, and Kentucky's universities in a cardiovascular initiative provides excellent opportunities to utilize Kentucky's unique niche in cardiovascular disease to create new intellectual property, translational research, and new knowledge-based businesses.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Cardiovascular Disease Initiative (KCDI) is hereby created with the program goals that include, but are not limited to:

(a) Reducing the prevalence of cardiovascular disease in Kentucky;

(b) Reducing the incidence of deaths from cardiovascular disease in Kentucky;

(c) Measurably reducing health care costs associated with cardiovascular disease in Kentucky;

(d) Conducting research and developing new intellectual property and ancillary health businesses that create new knowledge-based businesses in Kentucky; and

(e) Improving access to best practices and protocols for cardiovascular disease for all Kentuckians through an e-health network.

(2) The KCDI shall be governed by a board that shall be appointed by the Council on Postsecondary Education, except as provided in paragraph (l) of this subsection, no later than August 1, 2006, and composed of:

(a) Two (2) members of the Council on Postsecondary Education, one (1) of whom shall serve as chair of the KCDI during the first year, and this individual shall remain a board member for two (2) additional years; and one (1) of whom shall be appointed by the chair of the Council on Postsecondary Education. The board shall elect its chair after the first year and may re-elect the current chair;

(b) The president of the University of Louisville, or a designee;

(c) The president of the University of Kentucky, or a designee;

(d) The commissioner or designee of the Department of Innovation and Commercialization for a Knowledge Based Economy;

(e) The commissioner or designee of the Department of Public Health;

(f) The commissioner or designee of the Department for Medicaid Services;

(g) The chair of the Kentucky e-Health Network Board, or a designee;

(h) One (1) representative of a Kentucky comprehensive university and one (1) representative of the Kentucky Community and Technical Colleges System;

(i) Two (2) physicians with experience in research and treatment of cardiovascular disease, one (1) recommended by the dean of the medical school at the University of Louisville and one (1) recommended by the dean of the medical school at the University of Kentucky;

(j) One (1) member of a Kentucky chapter of the American Heart Association;

(k) Four (4) members representing the business community, from a list of eight (8) persons recommended by the Kentucky Chamber of Commerce; and

(l) Two (2) at-large members appointed by the Governor.

(3) (a) Members serving under paragraphs (a) to (g) of subsection (2) of this section shall serve by virtue of their positions and shall be permanent members of the board.

(b) Members appointed under paragraphs (h) and (i) of subsection (2) of this section shall serve three (3) year terms and may be reappointed to no more than two (2) consecutive terms. Members shall continue to serve until a successor is appointed.

(c) Members appointed under paragraphs (j) to (l) shall serve staggered terms that shall not exceed three (3) year terms. Members shall continue to serve until a successor is appointed.

(4) The KCDI board shall meet at least quarterly or upon the call of the chair. All members may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating travel reimbursement, but shall not be otherwise compensated for duties associated with the board.

(5) The KCDI board may appoint committees, subcommittees, advisory councils or other groups to assist in the furtherance of the goals of the KCDI. Members appointed under this subsection need not be members of the KCDI board and may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating travel reimbursement, but shall not be otherwise compensated for duties associated with the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The KCDI board shall establish goals and business plans for one (1), three (3), five (5), and ten (10) year time periods that include, but are not limited to, benchmark measures on:

(a) Outreach, including identification of Kentuckians who are at high risk for cardiovascular disease utilizing allied health programs in postsecondary institutions and local health departments;

(b) Early identification, including identification of target populations for hypertension, cholesterol, diabetes, and other at-risk histories utilizing a statewide data repository;

(c) Education, including the development and implementation of educational curricula and public awareness materials that address different target populations, such as age groups, gender, and identified occupational groups, and include distinctions for rural and urban populations;

(d) Follow up strategies for identified at-risk Kentuckians, including disease management protocols utilizing a

statewide data repository and the allied health programs in postsecondary institutions and local health departments;

(e) Improving access to health care for at-risk and identified patient population and improving access to best practices for health care providers, including utilization of an Internet-based e-health system;

(f) Research on cardiovascular disease and treatment that includes new intellectual property;

(g) Commercialization and sustainability to create profitable new businesses, including the development of an Internet-based data repository and e-health program established at Kentucky Innovation and Commercialization Centers affiliated with regional and comprehensive universities, in accordance with KRS 154.12-300 to 154.12-315, on cardiovascular and other diseases that can be accessed by health care providers working with patients; and

(h) Patient privacy protection as required by federal and state law.

(2) The board shall present business plans that include specific budget items developed pursuant to subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare of the General Assembly prior to expenditure of any funds relating to implementation of the business plans, and shall provide updates at least every six (6) months or upon request of the General Assembly. The board shall make business plans available to any interested party upon request.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Cardiovascular Disease Initiative (KCDI) fund is created as a separate revolving fund. The KCDI fund shall consist of funds appropriated by the General Assembly and any other proceeds from grants, contributions, or other moneys made available for the purposes of the fund.

(2) The KCDI fund amounts not expended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year.

(3) Any interest earnings of the KCDI fund shall become a part of the fund and shall not lapse.

(4) KCDI fund moneys shall be used to support the Kentucky Cardiovascular Disease Initiative established under Section 2 of this Act. Funds shall be expended in accordance with Sections 1 to 4 of this Act, distributed as directed by the board established by Section 2 of this Act.

Section 5. There is hereby appropriated from the General Fund to the KCDI fund created by Section 4 of this Act $2,000,000 for fiscal year 2006-2007 and $8,000,000 for fiscal year 2007-2008. Notwithstanding KRS 45.229, any General Fund appropriation not expended at the end of fiscal year 2006-2007 shall not lapse but shall be carried forward into the next fiscal year.

The Committee Substitute to **HB 185** is as follows:

HB 185, AN ACT relating to a cardiovascular disease initiative and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) Cardiovascular disease is the leading cause of death of Kentuckians and is the leading cause of death in every county in Kentucky;

(2) Early identification and early treatment of cardiovascular disease is effective and can save lives;

(3) An initiative on cardiovascular disease consisting of, but not limited to, research, outreach, prevention, early identification, education, and follow up for persons affected by cardiovascular disease is needed throughout the entire state; and

(4) The involvement of the Department of Innovation and Commercialization for a Knowledge Based Economy and its centers, the Council on Postsecondary Education, and Kentucky's universities in a cardiovascular initiative provides excellent opportunities to utilize Kentucky's unique niche in cardiovascular disease to create new intellectual property, translational research, and new knowledge-based businesses.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Cardiovascular Disease Initiative (KCDI) is hereby created with the program goals that include, but are not limited to:

(a) Preventing and reducing the prevalence of cardiovascular disease in Kentucky through early detection and education;

(b) Reducing the incidence of deaths from cardiovascular disease in Kentucky;

(c) Measurably reducing health care costs associated with cardiovascular disease in Kentucky;

(d) Conducting research and developing new intellectual property and ancillary health businesses that create new

knowledge-based businesses in Kentucky;

(e) Improving access to best practices and protocols for cardiovascular disease for all Kentuckians through an e-health network; and

(f) Assisting in securing state, federal, and private funding to stimulate health information capacities.

(2) The KCDI shall be governed by a board that shall be appointed by the Council on Postsecondary Education, except as provided in paragraph (l) of this subsection, no later than August 1, 2007, and composed of:

(a) Two (2) members shall be appointed by the chair of the Council on Postsecondary Education, one (1) of whom shall serve as chair of the KCDI during the first year, and this individual shall remain as a board member for two (2) additional years. The board shall elect its chair after the first year and may reelect the current chair;

(b) The president of the University of Louisville, or a designee;

(c) The president of the University of Kentucky, or a designee;

(d) The secretary or designee of the Cabinet for Health and Family Services;

(e) The commissioner or designee of the Department of Innovation and Commercialization for a Knowledge Based Economy;

(f) The commissioner or designee of the Department for Public Health;

(g) The commissioner or designee of the Department for Medicaid Services;

(h) The executive director or designee of the Department of Insurance;

(i) The chair of the Kentucky e-Health Network Board, or a designee;

(j) One (1) representative of a Kentucky comprehensive university and one (1) representative of the Kentucky Community and Technical College System;

(k) Two (2) physicians with experience in research and treatment of cardiovascular disease, one (1) recommended by the dean of the medical school at the University of Louisville and one (1) recommended by the dean of the medical school at the University of Kentucky;

(l) The executive director or designee of the Kentucky Primary Care Association;

(m) The president or designee of the Kentucky Academy of Family Physicians;

(n) One (1) member of a Kentucky chapter of the American Heart Association;

(o) Four (4) members representing the business community, from a list of eight (8) persons recommended by the Kentucky Chamber of Commerce;

(p) Two (2) at-large members appointed by the Governor;

(q) Four (4) members representing private sector hospitals that treat the greatest number of cardiology patients as measured by the number of MDC 5 discharges and as reported by COMP data or its successor;

(r) Two (2) members of the Senate, one (1) representing each major political party, appointed by the President of the Senate; and

(s) Two (2) members of the House of Representatives, one (1) representing each major political party appointed by the Speaker of the House.

(3) (a) Members serving under paragraphs (a) to (i) of subsection (2) of this section shall serve by virtue of their positions and shall be permanent members of the board.

(b) Members appointed under paragraphs (j) and (k) of subsection (2) of this section shall serve three (3) year terms and may be reappointed to no more than two (2) consecutive terms. Members shall continue to serve until a successor is appointed.

(c) Members appointed under paragraphs (l) to (p) of subsection (2) of this section shall serve staggered terms that shall not exceed three (3) year terms. Members shall continue to serve until a successor is appointed.

(d) Members appointed under paragraph (q) of subsection (2) of this section shall serve three (3) year terms.

(4) The KCDI board shall meet at least quarterly or upon the call of the chair. All members may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating travel reimbursement, but shall not be otherwise compensated for duties associated with the board.

(5) The KCDI board may appoint committees, subcommittees, advisory councils or other groups to assist in the furtherance of the goals of the KCDI. Members appointed under this subsection need not be members of the KCDI board and may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating travel reimbursement, but shall not be otherwise compensated for duties associated with the board.

(6) No member of the board shall be subject to personal liability for a loss sustained or damage suffered as a result of board action or inaction.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The KCDI board shall establish goals and business plans for one (1), three (3), five (5), and ten (10) year time periods that include, but are not limited to, benchmark measures on:

(a) Outreach, including identification of Kentuckians who are at high risk for cardiovascular disease utilizing allied health programs in postsecondary institutions and local health departments;

(b) Education on lifestyle modifications to prevent cardiovascular disease;

(c) Early identification, including identification of target populations for hypertension, cholesterol, diabetes, and other at-risk histories utilizing a statewide data repository;

(d) Education, including the development and implementation of educational curricula and public awareness materials that address different target populations, such as age groups, gender, and identified occupational groups, and include distinctions for rural and urban populations;

(e) Follow up strategies for identified at-risk Kentuckians, including disease management protocols utilizing a statewide data repository and the allied health programs in postsecondary institutions and local health departments;

(f) Improving access to health care for at-risk and identified patient population and improving access to best practices for health care providers, including utilization of an Internet-based e-health system;

(g) Basic, clinical, and translational research on cardiovascular disease and its treatment;

(h) Commercialization of intellectual property to create profitable new businesses, including the development of an Internet-based data repository and e-health program established at Kentucky Innovation and Commercialization Centers affiliated with regional and comprehensive universities, in accordance with KRS 154.12-300 to 154.12-315, on cardiovascular and other diseases that can be accessed by health care providers working with patients; and

(i) Patient privacy protection as required by federal and state law.

(2) The board shall present business plans that include specific budget items developed pursuant to subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare of the General Assembly prior to expenditure of any funds relating to implementation of the business plans, and shall provide updates at least every six (6) months or upon request of the General Assembly. The board shall make business plans available to any interested party upon request.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Cardiovascular Disease Initiative (KCDI) fund is created as a separate revolving fund. The KCDI fund shall consist of funds appropriated by the General Assembly and any other proceeds from grants, contributions, or other moneys made available for the purposes of the fund.

(2) The KCDI fund amounts not expended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year.

(3) Any interest earnings of the KCDI fund shall become a part of the fund and shall not lapse.

(4) KCDI fund moneys shall be used to support the Kentucky Cardiovascular Disease Initiative established under Section 2 of this Act. Funds shall be expended in accordance with Sections 1 to 4 of this Act, distributed as directed by the board established by Section 2 of this Act.

Section 5. KRS 216.267 is amended to read as follows:

(1) The duties and responsibilities of the board shall be to implement and oversee the operation of an electronic health network in this Commonwealth, to be known as the Ke-HN.

(2) The board shall:

(a) Exercise all of the administrative functions of the board;

(b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health-care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the implementation of the Ke-HN;

(c) Review models for an electronic health network;

(d) Oversee the development of comparative business cases for the models reviewed and choose a model to be implemented in this Commonwealth. In selecting a model for implementation, the board shall consider the following elements:

1. Various models and configurations for Ke-HN, either as developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in subsection (4) of this section, including the capability to integrate with an electronic Medicaid management information system, provide immediate health alerts to health-care providers across the state, support health-care provider education related to the identification and treatment of rare and unusual diseases, serve as a registry of the existence and location of advance directives related to health care or mental health treatment, and serve as a registry of organ donations. The

model chosen may be implemented in phases, as determined by the board;

2. Projected costs of the network, indicating those which would be allocated to state government, health-care providers, insurers, or others;
3. Options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transaction fees associated with the Ke-HN;
4. Procedures intended to secure protected health information in accordance with HIPAA;
5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;
6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and
7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, if the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;

(e) Receive comments from the advisory group created in paragraph (b) of this subsection;

(f) Submit a description of the model chosen for implementation to the Legislative Research Commission for the opportunity for any comments;

(g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;

(h) Oversee the implementation of the model chosen subject to the appropriation of funds. Oversight shall include the following:

1. Developing any central interchange, including any central server and software;
2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;
3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and
4. Performing an outcomes assessment of the benefits achieved by the network;

(i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:

1. The HIPAA standards for electronic transactions as the federal regulations become final, or more stringent standards for content and networking as determined by the board;
2. Medical lexicon for administrative billing and clinical purposes;
3. Procedure and billing codes; and
4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;

(j) Establish procedures to ensure that Ke-HN transactions are in compliance with HIPAA guidelines;

(k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;

(l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organizations;

(m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;

(n) Implement educational efforts about the Ke-HN;

(o) Develop incentives for providers and payors to use the Ke-HN;

(p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;

(q) Facilitate the development of private and public partnerships to build the Ke-HN;

(r) Assign priority in phasing in the network to geographical locations that are critical to homeland security and protection of the Commonwealth's energy production;

(s) Collaborate with federal agencies in the development and implementation of the Ke-HN as a demonstration model for the nation;

(t) Collaborate with the Kentucky Health Care Infrastructure Authority created under KRS 216.261;

(u) Assist with the securing of state, federal, or private funding for the Kentucky Health Care Infrastructure Authority created under KRS 216.261;

(v) Stimulate the development of state and local population health information capacities;

(w) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;

(x) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;

(y) Report to the Governor, secretary of the Cabinet for Health and Family Services, commissioner of the Department of Commercialization and Innovation, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and

(z) Collaborate with the Telehealth Board to link functions of the telehealth network to the Ke-HN, as determined by the Telehealth Board.

(3) The board may:

(a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between payors, insurers, health-care providers, and patients that are not Medicaid-related, unless prohibited by federal law or regulation;

(b) Contract, in accordance with KRS Chapter 45A, with an independent third party ***or a public or nonprofit e-Health corporation*** for any service necessary to carry out the responsibilities of the board subject to the appropriation of funds;

(c) Award grants to health-care providers and payors to implement projects related to health informatics, with highest priority given to health-care providers and payors that serve rural and inner-city areas of this Commonwealth;[~~ and~~]

(d) Enter into an agreement with the University of Kentucky or the University of Louisville to develop comparative business models or implement any phase of the Ke-HN, using private or federal funds received by the university for the purpose designated in the agreement***; and***

(e) Create a public or nonprofit e-Health corporation to facilitate public-private collaboration in development and implementation of the Ke-HN:

1. A public or nonprofit e-Health organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the Ke-HN Board;

2. Funds appropriated to a public or nonprofit e-Health corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated; and

3. A public or nonprofit e-Health corporation created under this paragraph shall:

a. Follow standard accounting practices;

b. Conduct an annual financial audit by an independent auditor;

c. Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the Ke-HN Board no later than sixty (60) days after the end of a quarter; and

d. Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare by September 30 following the end of each state fiscal year. The annual report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.

(f) Promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of paragraph (e) of this subsection.

(4) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:

(a) Automatic drug-drug interaction and allergy alerts;

(b) Automatic preventive medicine alerts;

(c) Electronic access to the results of laboratory, X-ray, or other diagnostic examinations;

(d) Disease management;

(e) Disease surveillance and reporting;

(f) Educational offerings for health-care providers;
(g) Health alert system and other applications related to homeland security;
(h) Links to drug formularies and cost information;
(i) Links to evidence-based medical practice;
(j) Links to patient educational materials;
(k) Medical record information transfer to other providers with the patient's consent;
(l) Physician order entry;
(m) Prescription drug tracking;
(n) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;
(o) Registry of the existence and location of advance directives related to health care and mental health treatment;
(p) Registry of organ donations executed under KRS 311.165 to 311.235;
(q) Secured electronic consultations between providers and patients;
(r) A single-source insurance credentialing system for health care providers; and
(s) The following transactions covered by HIPAA:
  1. Electronic health-care claims submission;
  2. Electronic payment;
  3. Coordination of benefits;
  4. Health-care claim status;
  5. Enrollment and disenrollment in a health plan;
  6. Eligibility for a health plan;
  7. Health plan premium payments;
  8. Referral certification and authorization;
  9. First report of injury; and
  10. Health claims attachments.

Section 6. There is included in the appropriation for the Cabinet for Health and Family Services for state fiscal year 2007-2008 federal grant funds from the Centers for Medicare and Medicaid Services $4,987,583 for the Kentucky Health Information Partnership program in the Department for Medicaid Services.

The Committee Amendment No. 1 Title to **HB 185** is as follows:

HB 185, By amending the title to read "AN ACT relating to health care, and making an appropriation therefor.".

HB 258, AN ACT relating to local taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.750 is amended to read as follows:

As used in KRS 67.750 to 67.790, unless the context requires otherwise:

(1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

  (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

  (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

(3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;

(4) "Employee" means any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee;

(5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;

(6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following:

- (a) Sales and excise taxes paid; and
- (b) Returns and allowances;

(7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***2006***~~[2004]~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ***2006***~~[2005]~~, that would otherwise terminate;

(8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

- (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;
- (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
- (c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;
- (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
- (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;

(9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;

(10) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes;

(11) "Taxable gross receipts" in case of a business entity having payroll or sales revenues both within and without a tax district means gross receipts as defined in subsection (6) of this section, as apportioned under KRS 67.753;

(12) "Taxable gross receipts" in case of a business entity having payroll or sales revenue only in one (1) tax district means gross receipts as defined in subsection (6) of this section;

(13) "Taxable net profit" in case of a business entity having payroll or sales revenue only in one (1) tax district means net profit as defined in subsection (8) of this section;

(14) "Taxable net profit" in case of a business entity having payroll or sales revenue both within and without a tax district means net profit as defined in subsection (8) of this section, as apportioned under KRS 67.753; and

(15) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.

HB 262, AN ACT relating to fiscal matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.450 is amended to read as follows:

(1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Assistance Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested in ***accordance with KRS 42.500***~~[United States Government Securities maturing not later than one (1) year from the date of investment]~~ and the income earned from the investment shall be prorated for expenditure in coal producing and coal impact counties according to each county's allocable part in the fund.

(2) Effective July 1, 1981, an amount equal to one-half (1/2) of the tax collected annually on the sale of minerals, exclusive of coal, shall be transferred from the general fund into this fund. The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.

Section 2. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) (a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.

1. If the improvements cost more than ***two***[~~one~~] thousand dollars ***($2,000)***[~~($1,000)~~], the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full over the life of the lease. No other financing method shall be used.

2. If the improvements cost ***two***[~~one~~] thousand dollars ***($2,000)***[~~($1,000)~~] or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full over a period of time which shall run no longer that the life of the lease. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost.

(3) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4) The Division of Real Properties, within the Department for Facilities and Support Services, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 3. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the executive director of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Department of Revenue, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Department of Revenue all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the commissioner of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the commissioner of revenue to calculate an appropriate rate, the secretary of the Environmental and Public

Protection Cabinet and the secretary for the Justice Cabinet shall certify to the commissioner of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the commissioner of revenue shall advise the executive director of insurance of the new rate and the executive director shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Office of Insurance shall provide the Department of Revenue with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Department of Revenue shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Office of Insurance. The Department of Revenue shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Office of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the Department of Revenue shall not identify or divulge the confidential tax information of any individual insurer in this report.

(5) The insurance premiums surcharge provided in this section shall not apply to premiums collected from the following:

(a) The federal government;

(b) Resident nonprofit educational and charitable institutions qualifying under Section 501(c)(3) of the Internal Revenue Code;

(c) Resident nonprofit religious institutions for coverage of real, tangible, and intangible property;

(d) State government for coverage of real property; and

(e) Local governments for coverage of real property.

Section 4. KRS 138.165 is amended to read as follows:

(1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.

(2) Whenever any peace officer of this state, or any representative of the department, finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent. At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall notify the commissioner of the Department of Revenue of the nature and quantity of the goods seized. Any seized goods shall be held for a period of twenty (20) days and if after such period no person has claimed the cigarettes as his property, the commissioner shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All

proceeds, less the cost of sale, from the sale shall be ***retained by the department to be used for enforcement of the provisions of KRS 138.130 to 138.205 and 248.752***~~[paid into the Kentucky State Treasury for general fund purposes]~~.

(3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the department finds any vending machine within the borders of this state dispensing untax-paid cigarettes, he shall immediately seize the vending machine and store the same in a safe place selected by him. He shall thereafter proceed as provided in subsection (2) of this section and the commissioner of the Department of Revenue shall cause the vending machine to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. If any peace officer or agent of the department finds any such motor vehicle, the vehicle shall be seized immediately and stored in a safe place. The peace officer or agent of the department shall thereafter proceed as provided in subsection (2) of this section and the commissioner of the Department of Revenue shall cause the motor vehicle to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(5) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the commissioner of the Department of Revenue for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the Department of Revenue that the owner was without fault in the possession, dispensing, or transportation of the untax-paid cigarettes, the Department of Revenue shall remit the forfeiture. If the Department of Revenue determines that the possession, dispensing, or transportation of untax-paid cigarettes was willful or intentional, the Department of Revenue may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by the Department of Revenue of not more than fifty percent (50%) of the value of the property forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.

(6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky Board of Tax Appeals in the manner provided by law.

Section 5. KRS 141.160 is amended to read as follows:

(1) All returns of income for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns of income shall be supplied by the department.

(2) Whenever, in the opinion of the department, it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the department may compel the taxpayer to produce for inspection a copy of his federal return and all statements and schedules in support thereof. The department may also require copies of reports of adjustments made by the federal government.

(3) Notwithstanding subsection (1) of this section, returns for the preceding taxable year made by cooperatives as described in Sections 521 and 1381 of the Internal Revenue Code or by KRS Chapter 272 shall be made by September 15 of each year, or by the fifteenth day of the ninth month for returns made on the basis of a fiscal year.

Section 6. KRS 141.418 is amended to read as follows:

(1) As used in this section:

(a) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.01-400 and KRS 224.01-405 for which the Environmental and Public Protection Cabinet has made a determination that:

1. The responsible parties are financially unable to carry out the obligations in KRS 224.01-400 and KRS 224.01-405; and

2. The property was acquired after March 18, 2005, by a bona fide prospective purchaser as defined in 42 U.S.C. sec. 9601(40);

(b) "Expenditures" means payment for work to characterize the extent of contamination and to remediate the contamination at a qualifying voluntary environmental remediation property; and

(c) "Taxpayer" means an individual subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040.

(2) (a) There shall be allowed a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040 for taxable years beginning after December 31, 2004, and against the tax imposed by KRS 141.0401 for taxable years beginning after December 31, 2006, for taxpayer expenditures made at a qualifying voluntary environmental remediation property in order to meet the requirements of an agreed order entered into by the taxpayer under the provisions of KRS 224.01-518, provided that the taxpayer has obtained a covenant not to sue from the Environmental and Public Protection Cabinet under KRS 224.01-526.

(b) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.

(3) The maximum total credit for each taxpayer shall not exceed one hundred fifty thousand dollars ($150,000). For purposes of this section, an affiliated group of taxpayers required to file a consolidated return under KRS 141.200 shall be treated as one (1) taxpayer.

(4) A taxpayer claiming a credit under this section shall submit receipts to the ***Environmental and Public Protection***~~[Finance and Administration]~~ Cabinet in proof of the expenditures claimed. ***Upon verification by***~~[The Finance and Administration Cabinet shall forward the receipts to]~~ the Environmental and Public Protection Cabinet ***of the expenditures claimed, the receipts shall be forwarded to***~~[for verification. After the receipts are verified,]~~ the Finance and Administration Cabinet ***which*** shall notify the taxpayer of eligibility for the credit.

(5) The credit may be first claimed on the income tax return of the taxpayer filed in the taxable year during which the credit was certified. The amount of the allowable credit for any taxable year shall be twenty-five percent (25%) of the maximum credit approved. The credit may be carried forward for ten (10) successive taxable years.

(6) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall also pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.

Section 7. KRS 141.422 is amended to read as follows:

As used in KRS 141.422 to 141.425:

(1) "Annual biodiesel tax credit cap" means one million five hundred thousand dollars ($1,500,000);

(2) "Biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agriculture plant oils or animal fats that meets ***the current*** American Society for Testing and Materials specification~~[D6751-03]~~ for biodiesel fuel (B100) blend stock distillate fuels;

(3) "Biodiesel producer" means a business that uses agricultural crops, agricultural residues, or waste products to manufacture biodiesel at a location in this Commonwealth; and

(4) "Blended biodiesel" means a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater).

Section 8. KRS 141.040 is amended to read as follows:

(1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income or the alternative minimum calculation computed under this section at the rates specified in this section:

(a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;

(b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(c) Banks for cooperatives;

(d) Production credit associations;

(e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

(g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

(h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

1. The property consists of the final printed product, or copy from which the printed product is produced; and

2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b); and

(i) For all taxable years except those beginning after December 31, 2004, and before January 1, 2007, S corporations.

(2) For tax years ending before January 1, 1990, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:

(a) Four percent (4%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) For taxable years beginning after December 31, 2004, and before January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:

(a) 1. Four percent (4%) of the first fifty thousand dollars ($50,000) of taxable net income;

2. Five percent (5%) of taxable net income over fifty thousand dollars ($50,000) up to one hundred thousand dollars ($100,000); and

3. Seven percent (7%) of taxable net income over one hundred thousand dollars ($100,000); or

(b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:

1. The gross receipts calculation contained in subsection (11) of this section; or

2. The gross profits calculation contained in subsection (12) of this section.

(6) For taxable years beginning on or after January 1, 2007, ***corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection or the tax computed under paragraph (b)1. or 2. of this subsection, and shall also pay the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows***[~~the following rates shall apply~~]:

(a) ***1.*** Four percent (4%) of the first fifty thousand dollars ($50,000) of taxable net income;

2.[~~(b)~~] Five percent (5%) of taxable net income over fifty thousand dollars ($50,000) up to one hundred thousand dollars ($100,000); and

3.[~~(c)~~] Six percent (6%) of taxable net income over one hundred thousand dollars ($100,000)***; or***

(b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:

1. The gross receipts calculation contained in subsection (11) of this section; or

2. The gross profits calculation contained in subsection (12) of this section.

(7) For taxable years beginning on or after January 1, 2005,[~~ and before January 1, 2007,~~] a minimum of one hundred seventy-five dollars ($175) shall be due for the taxable year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.

(8) The alternative minimum calculation portion of the tax computation provided in ***subsections***[~~subsection~~] (5) ***and (6)*** of this section shall not apply to:

(a) Public service corporations subject to tax under KRS 136.120;

(b) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

(c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(d) An alcohol production facility as defined in KRS 247.910; and

(e) For taxable years beginning after December 31, 2005, and before January 1, 2007, political organizations as defined in Internal Revenue Code Section 527 and related regulations.

(9) For taxable years beginning after December 31, 2004[~~, and before January 1, 2007~~]:

(a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.

(b) Notwithstanding any other provisions of this section or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.

(c) Any corporation that reduces taxable net income, gross receipts, or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under KRS 141.420.

(d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

(10) For taxable years beginning after December 31, 2004, and before January 1, 2007:

(a) To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:

1. Be used by the Department of Revenue or the taxpayer to assert that the party making the election is doing business in Kentucky;

2. Result in an increase of the amount of credit allowable under KRS 141.420; or

3. Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).

(b) The Department of Revenue shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.

(11) The alternative minimum calculation for gross receipts shall be:

(a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's Kentucky gross receipts; and

(b) For taxable years beginning on or after January 1, 2006[~~, and before January 1, 2007~~]:

1. If the corporation's gross receipts from all sources are three million dollars ($3,000,000) or less, the alternative minimum calculation shall be zero;

2. If the corporation's gross receipts from all sources are greater than three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the alternative minimum calculation shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's Kentucky gross receipts, reduced by an amount equal to two thousand eight hundred fifty dollars ($2,850) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the corporation's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars ($3,000,000), but in no case shall the result be less than zero;

3. If the corporation's gross receipts from all sources are equal to or greater than six million dollars ($6,000,000), the alternative minimum calculation shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's Kentucky gross receipts.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross receipts of the affiliated group shall include the total gross receipts from all sources of the affiliated group, including eliminating entries for transactions among the group.

(12) The alternative minimum calculation for gross profits shall be:

(a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, seventy-five cents ($0.75) per one hundred dollars ($100) of the corporation's Kentucky gross profits; and

(b) For taxable years beginning on or after January 1, 2006[~~, and before January 1, 2007~~]:

1. If the corporation's gross profits from all sources are three million dollars ($3,000,000) or less, the tax shall be zero;

2. If the corporation's gross profits from all sources are at least three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the tax shall be seventy-five cents ($0.75) per one hundred dollars ($100)

of the corporation's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars ($22,500) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the corporation's Kentucky gross profits, and the denominator of which is three million dollars ($3,000,000), but in no case shall the result be less than zero;

3. If the corporation's gross profits from all sources are equal to or greater than six million dollars ($6,000,000), the tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) on all of the corporation's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross profits of the affiliated group shall include the total gross profits from all sources of the affiliated group, including eliminating entries for transactions among the group.

(13) As used in subsections (11) and (12) of this section:

(a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c);

(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c);and

(c) The terms defined in KRS 141.0401(1)(d) to (l) shall have the same meaning as provided in KRS 141.0401.

(14) (a) For taxable years beginning on or after January 1, 2007, an S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.

(b) 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.

2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.

(c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.

Section 9. KRS 141.0401 is amended to read as follows:

(1) As used in this section:

(a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c), and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c), and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(c) "Combined group" means all[~~ members of an affiliated group as defined in KRS 141.200(9)(b) and all~~] limited liability pass-through entities that would be included in an affiliated group if organized as a corporation;

(d) "Cost of goods sold" means:

1. Amounts that are:

a. Allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service relating to cost of goods sold, unless modified by this paragraph; and

b. Incurred in acquiring or producing the tangible product generating the Kentucky gross receipts.

2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:

a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;

b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and

c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;

3. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs shall be included in cost of goods sold.

As used in this paragraph, "guidelines issued by the Internal Revenue Service" includes regulations, private letter rulings, or any other guidance issued by the Internal Revenue Service that may be relied upon by taxpayers under reliance standards established by the Internal Revenue Service;

(e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then "Kentucky gross profits" means Kentucky gross receipts; and

2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources means gross receipts from all sources;

(f) "Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;

(g) "Bulk delivery costs" means the cost of delivering the product to the consumer if:

1. The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and

2. The tangible product is taxable under KRS 138.220;

(h) "Manufacturing" and "producing" means:

1. Manufacturing, producing, constructing, or assembling components to produce a significantly different or enhanced end tangible product;

2. Mining or severing natural resources from the earth; or

3. Growing or raising agricultural or horticultural products or animals;

(i) "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land;

(j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible product;

(k) "Tangible personal property" means property, other than real property, that has physical form and characteristics; and

(l) "Tangible product" means real property and tangible personal property; ***and***

(m) "Limited liability entity tax" means nonrefundable prepaid income taxes paid by a limited liability pass-through entity on behalf of the owners, partners, or shareholders of the limited liability entity;

(2) (a) For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax shall be paid by[~~ every corporation and~~] every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits except as provided in this subsection. ***The limited liability entity tax shall be a prepayment of the expected amount of income tax liability of the owners, partners, or shareholders of the limited liability pass-through entity.*** A small business exclusion from this ***prepayment of*** tax shall be provided based on the reduction contained in this subsection. The tax shall be the greater of the amount computed under paragraph (b) of this subsection or one hundred seventy-five dollars ($175), regardless of the application of any tax credits provided under this chapter or any other provisions of the Kentucky Revised Statutes for which the business entity may qualify.

(b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:

1. a. If the[~~ corporation's or~~] limited liability pass-through entity's gross receipts from all sources are three million dollars ($3,000,000) or less, the limited liability entity tax shall be zero;

b. If the[~~ corporation's or~~] limited liability pass-through entity's gross receipts from all sources are greater than three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the limited liability entity tax shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the[~~ corporation's or~~] limited liability pass-through entity's Kentucky gross receipts reduced by an amount equal to two thousand eight hundred fifty dollars ($2,850) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the[~~ corporation's or~~] limited liability pass-through entity's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars ($3,000,000), but in no case shall the result be less than zero;

c. If the[~~ corporation's or~~] limited liability pass-through entity's gross receipts from all sources are equal to or greater than six million dollars ($6,000,000), the limited liability entity tax shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the[~~ corporation's or~~] limited liability pass-through entity's Kentucky gross receipts.

2. a. If the[~~ corporation's or~~] limited liability pass-through entity's gross profits from all sources are three

million dollars ($3,000,000) or less, the limited liability entity tax shall be zero;

b. If the[~~ corporation's or~~] limited liability pass-through entity's gross profits from all sources are at least three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of the[~~ corporation's or~~] limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars ($22,500) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the[~~ corporation's or~~] limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars ($3,000,000), but in no case shall the result be less than zero;

c. If the[~~ corporation's or~~] limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of all of the[~~ corporation's or~~] limited liability pass-through entity's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph, a member of a combined group shall consider the combined gross receipts and the combined gross profits from all sources of the entire combined group, including eliminating entries for transactions among the group.

(c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a[~~ corporation or~~] limited liability pass-through entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars ($175) at each layer.

(d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.

(3) [~~A nonrefundable credit based on~~]The ***limited liability entity*** tax calculated under subsection (2) of this section shall be allowed ***as a nonrefundable credit*** against the tax imposed by KRS 141.020 or 141.040.[~~ The credit amount shall be determined as follows:~~

~~(a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars ($175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.~~

~~(b)~~] The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.

(4) Each taxpayer subject to the ***limited liability entity*** tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required in KRS 141.042 shall be paid by the original due date of the return.

(5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.

(6) The ***limited liability entity*** tax imposed by subsection (2) of this section shall not apply to:

(a) Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;

(b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(c) Banks for cooperatives;

(d) Production credit associations;

(e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

(g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

(h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

1. The property consists of the final printed product, or copy from which the printed product is produced; and

2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b);

(i) Public service corporations subject to tax under KRS 136.120;

(j) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

(k) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(l) An alcohol production facility as defined in KRS 247.910;

(m) Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;

(n) Regulated investment companies as defined in Section 851 of the Internal Revenue Code;

(o) Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

(p) Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;

(q) Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or

(r) Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.

(7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) to (r) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.

(b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.

(c) Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.

(d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

(8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

Section 10. The following KRS section is repealed:

14.080 Interest paid on state bonds.

The Committee Substitute to **HB 262** is as follows:

HB 262, AN ACT relating to fiscal matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.450 is amended to read as follows:

(1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Assistance Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested in ***accordance with KRS 42.500***~~[United States Government Securities maturing not later than one (1) year from the date of investment]~~ and the income earned from the investment shall be prorated for expenditure in coal producing and coal impact counties according to each county's allocable part in the fund.

(2) Effective July 1, 1981, an amount equal to one-half (1/2) of the tax collected annually on the sale of minerals, exclusive of

coal, shall be transferred from the general fund into this fund. The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.

Section 2. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) (a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.

1. If the improvements cost more than *two*[~~one~~] thousand dollars *($2,000)*[~~($1,000)~~], the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full over the life of the lease. No other financing method shall be used.

2. If the improvements cost *two*[~~one~~] thousand dollars *($2,000)*[~~($1,000)~~] or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full over a period of time which shall run no longer that the life of the lease. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost.

(3) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4) The Division of Real Properties, within the Department for Facilities and Support Services, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 3. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the executive director of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Department of Revenue, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Department of Revenue all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the commissioner of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation

Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the commissioner of revenue to calculate an appropriate rate, the secretary of the Environmental and Public Protection Cabinet and the secretary for the Justice Cabinet shall certify to the commissioner of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the commissioner of revenue shall advise the executive director of insurance of the new rate and the executive director shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Office of Insurance shall provide the Department of Revenue with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Department of Revenue shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Office of Insurance. The Department of Revenue shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Office of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the Department of Revenue shall not identify or divulge the confidential tax information of any individual insurer in this report.

(5) The insurance premiums surcharge provided in this section shall not apply to premiums collected from the following:

(a) The federal government;

(b) Resident nonprofit educational and charitable institutions qualifying under Section 501(c)(3) of the Internal Revenue Code;

(c) Resident nonprofit religious institutions for coverage of real, tangible, and intangible property;

(d) State government for coverage of real property; and

(e) Local governments for coverage of real property.

Section 4. KRS 141.160 is amended to read as follows:

(1) All returns of income for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns of income shall be supplied by the department.

(2) Whenever, in the opinion of the department, it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the department may compel the taxpayer to produce for inspection a copy of his federal return and all statements and schedules in support thereof. The department may also require copies of reports of adjustments made by the federal government.

(3) Notwithstanding subsection (1) of this section, returns for the preceding taxable year made by cooperatives as described in Sections 521 and 1381 of the Internal Revenue Code or by KRS Chapter 272 shall be made by September 15 of each

year, or by the fifteenth day of the ninth month for returns made on the basis of a fiscal year.

Section 5. KRS 141.418 is amended to read as follows:

(1) As used in this section:

(a) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.01-400 and KRS 224.01-405 for which the Environmental and Public Protection Cabinet has made a determination that:

1. The responsible parties are financially unable to carry out the obligations in KRS 224.01-400 and KRS 224.01-405; and

2. The property was acquired after March 18, 2005, by a bona fide prospective purchaser as defined in 42 U.S.C. sec. 9601(40);

(b) "Expenditures" means payment for work to characterize the extent of contamination and to remediate the contamination at a qualifying voluntary environmental remediation property; and

(c) "Taxpayer" means an individual subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040.

(2) (a) There shall be allowed a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040 for taxable years beginning after December 31, 2004, and against the tax imposed by KRS 141.0401 for taxable years beginning after December 31, 2006, for taxpayer expenditures made at a qualifying voluntary environmental remediation property in order to meet the requirements of an agreed order entered into by the taxpayer under the provisions of KRS 224.01-518, provided that the taxpayer has obtained a covenant not to sue from the Environmental and Public Protection Cabinet under KRS 224.01-526.

(b) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.

(3) The maximum total credit for each taxpayer shall not exceed one hundred fifty thousand dollars ($150,000). For purposes of this section, an affiliated group of taxpayers required to file a consolidated return under KRS 141.200 shall be treated as one (1) taxpayer.

(4) A taxpayer claiming a credit under this section shall submit receipts to the ***Environmental and Public Protection***[~~Finance and Administration~~] Cabinet in proof of the expenditures claimed. ***Upon verification by***[~~The Finance and Administration Cabinet shall forward the receipts to~~] the Environmental and Public Protection Cabinet ***of the expenditures claimed, the receipts shall be forwarded to***[~~for verification. After the receipts are verified,~~] the Finance and Administration Cabinet ***which*** shall notify the taxpayer of eligibility for the credit.

(5) The credit may be first claimed on the income tax return of the taxpayer filed in the taxable year during which the credit was certified. The amount of the allowable credit for any taxable year shall be twenty-five percent (25%) of the maximum credit approved. The credit may be carried forward for ten (10) successive taxable years.

(6) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall also pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.

Section 6. KRS 141.422 is amended to read as follows:

As used in KRS 141.422 to 141.425:

(1) “Annual biodiesel tax credit cap” means one million five hundred thousand dollars ($1,500,000);

(2) "Biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agriculture plant oils or animal fats that meets ***the current*** American Society for Testing and Materials specification[~~ D6751-03~~] for biodiesel fuel (B100) blend stock distillate fuels;

(3) “Biodiesel producer” means a business that uses agricultural crops, agricultural residues, or waste products to manufacture biodiesel at a location in this Commonwealth; and

(4) "Blended biodiesel" means a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater).

Section 7. KRS 198A.090 is amended to read as follows:

(1) Except as provided in subsection (6) of this section, the corporation may provide for the issuance, at one (1) time or from time to time, of bonds of the corporation if the cumulative outstanding indebtedness of the corporation's bonds does not exceed ***five***[~~two~~] billion[~~ five hundred million~~] dollars ***($5,000,000,000)***[~~($2,500,000,000)~~], in order to carry out and effectuate its corporate purposes and powers.

(2) In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on the bonds or notes shall be payable solely from the funds provided for the payment. Notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation.

(3) The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at a price and under terms and conditions determined by the corporation. Bonds or notes shall bear interest at a rate determined by the corporation. Notes shall mature at a time not exceeding ten (10) years from their date and bonds shall mature at a time not exceeding forty (40) years from their date, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination and the place of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. If an officer whose signature or a facsimile of whose signature appears on any bonds, notes, or coupons attached to them shall cease to be an officer before the delivery thereof, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until delivery. The corporation may provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter, if the sale is approved by the corporation.

(4) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in the manner and under the restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the same.

(5) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which become mutilated, destroyed, or lost.

(6) (a) Prior to the issuance of any bonds or notes that are not secured by:

1. Direct obligations or obligations guaranteed by the United States of America; or

2. Obligations of federal agencies to the extent that the obligations are backed by the full faith and credit of the United States of America; or

3. Repurchase agreements with any primary dealer in securities fully secured by obligations described in subparagraphs 1. and 2. if the market value of the security is maintained at one hundred three percent (103%) of the principal amount of the repurchase agreement and the security is held by an independent third party custodian financial institution; or

4. Insured or guaranteed construction loans or mortgage loans as defined by KRS 198A.010(9) and (10); or

5. Guaranty insurance policies which guarantee payment of the principal and interest on the bonds issued by a nationally recognized entity authorized to issue guarantees and rated in the highest rating category by at least one (1) of the nationally recognized rating services;

the corporation shall obtain the approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1), unless the provisions of paragraph (b) of this subsection apply. This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bonds or notes.

(b) The corporation may provide for the issuance, at any one (1) time or from time to time, of bonds which do not satisfy the requirements of paragraph (a) of this subsection without approval of the issuance by the General Assembly if the cumulative outstanding indebtedness of the corporation that does not meet the requirements of paragraph (a) of this subsection does not exceed thirty million dollars ($30,000,000).

(c) The corporation shall annually report on its housing and bonding programs to the Interim Joint Committee on Appropriations and Revenue.

(7) The Finance and Administration Cabinet shall provide to the corporation fiscal consultant services regarding revenue bond management as necessary.

Section 8. The following KRS section is repealed:

14.080 Interest paid on state bonds.

HB 291, AN ACT relating to the Kentucky educational excellence scholarship program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7881 is amended to read as follows:

(1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or

a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in ***subsections (5) and***[~~subsection~~] (6) of this section.

(2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.

(c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.

2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.

3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.

4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) ***1.*** Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps[~~, for up to three (3) years~~].

2. A student whose eligibility expired prior to the effective date of this Act due to the three (3) year time limit on eligibility extensions imposed by this paragraph prior to the effective date of this Act shall have his or her eligibility reinstated for the number of months beyond the three (3) years during which he or she was on active duty status.

(6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

(7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

The Committee Substitute to **HB 291** is as follows:

HB 291, AN ACT relating to the Kentucky educational excellence scholarship program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7881 is amended to read as follows:

(1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in ***subsections (5) and***[~~subsection~~] (6) of this section.

(2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.

(c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.

2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.

3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.

4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) ***1.*** Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps ***the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed***, for~~[up to three (3) years]~~.

2. A student whose eligibility expired prior to the effective date of this Act due to the three (3) year time limit on eligibility extensions imposed by this paragraph prior to the effective date of this Act shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.

(6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's

five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

(7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

HB 312, AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable, or the lack of an appropriate procurement document in place, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) There is appropriated out of the general fund and the transportation fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, the amounts listed below:

Abell/Irvin Elevator Service Company P.O. Box 403649 Atlanta, GA 30384-3649	$1,955.00
AcuteCare E'Town, PLLC 2412 Ring Road, Suite 100 Elizabethtown, KY 42702	$40.00
Ajilon Consulting US Dept. CH 10682 Palatine, IL 60055-0682	$1,824.00
Commercial Pavers, Inc. 1801 Payne Street Louisville, KY 40206	$1,478.75
Ehrenpreis, David 5 Horizon Road Fort Lee, NJ 07024	$175,000.00
Estill County Airport Board 38 Edgewood Drive Irvine, KY 40336-1082	$1,650.00
Frankfort Plant Board 317 West 2nd Street Frankfort, KY 40601	$175,397.00
Hopkins County Fiscal Court 56 North Main Street Madisonville, KY 42431	$6,528.19
Kentucky Medical Services Foundation P.O. Box 587 Lexington, KY 40586-0587	$8,507.00
Kentucky Retirement Systems 1260 Louisville Road Frankfort, KY 40601	$1,196.93
Kentucky Retirement Systems 1260 Louisville Road Frankfort, KY 40601	$5,673.73
Louisville/Jefferson County Metro Government c/o Finance Department/Business Office	

611 West Jefferson Street	
Louisville, KY 40202	$20,357.30
Louisville/Jefferson County Metro Government	
c/o Finance Department/Business Office	
611 West Jefferson Street	
Louisville, KY 40202	$139,372.28
Middlesboro Appalachian Regional Hospital	
3600 West Cumberland Avenue	
Middlesboro, KY 40965	$160.00
Morgan & Pottinger, PSC	
601 West Main Street	
Louisville, KY 40202	$5,473.00
Qwest Communications	
Business Services	
P.O. Box 856169	$283.14
Louisville, KY 40285-6169	
Select Lab Services	
140 East Fifth Street	
London, KY 40741	$100.00
Sturgill, Turner, Barker & Moloney, PLLC	
155 East Main Street	
Lexington, KY 40597	$6,366.07
Together We Can Counseling Center, LLC	
P.O. Box 1733	
London, KY 40743	$100.00
Veracity Programs, Inc.	
P.O. Box 410047	
Kansas City, MO 64141-0047	$3,056.00
Williamson LLC	
P.O. Box 1283	
206 Coconut Avenue	
Anna Maria, FL 34216	$2,304.00

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or their personal representatives, and the firms listed, but not presented for payment within a period of five years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

	Payee	Treasury Fee	Total Check
Check # G13663468 dated January 22, 1998			
AG Transport			
5620 Greenlick Road			
Corydon, KY 42406	$166.98	$25.00	$141.98
Check # G13663482 dated January 22, 1998			
AG Transport			
5620 Greenlick Road			
Corydon, KY 42406	$389.63	$25.00	$364.63
Check # G10937933 dated June 18, 1999			
Ann Atwell			
1734 Berry Blvd			
Louisville, KY 40215	$977.50	$25.00	$952.50
Check # T6630224 dated April 15, 1999			

Jack Baker 60 Sybal Lane Aiken, SC 29801	$97.00	$25.00	$72.00
Check # Y17643436 dated January 24, 2000			
Roxanne Brinley 201 Fairmont Street #B Clearwater, FL 33755	$150.00	$25.00	$125.00
Check # G4402947 dated May 14, 1999			
Stacye Cannon 6329 Ebenezer-Ovil Road Hopkinsville, KY 42240-8932	$125.00	$25.00	$100.00
Check # G3420741 dated November 6, 1997			
John Caudill Route 2, Box 217 Ezel, KY 41425-9015	$161.08	$25.00	$136.08
Check # BT0109610 dated December 24, 1997			
Irene Chestnut 724 Carlin Court Carmel, IN 46032	$1,344.26	$25.00	$1,319.26
Check # T18549305 dated February 15, 2001			
Jerome L. Coulter 300 Smith Ridge Road Campbellsville, KY 42718	$183.00	$25.00	$158.00
Check # T19304420 dated May 16, 2001			
Cortni Crews 359 Barton Shockley Road Scottsville, KY 42164	$572.00	$25.00	$547.00
Check # E11611794 dated November 24, 1999			
John E. Davis 1389 Logan Station Road Shelbyville, KY 40065	$228.87	$25.00	$203.87
Check # T5438669 dated April 18, 1988			
Kelley Deaton, Jr. 359-C South Fourth Street Danville, KY 40422	$96.00	$25.00	$71.00
Check # T6780695 dated May 3, 1999			
Walter K. & D. M. Dollar 452 Pine Creek Road Shepherdsville, KY 40165	$118.00	$25.00	$93.00
Check # T13298666 dated July 5, 1985			
Doris Downs 4700 Trowbridge Terrace, Apt. 102 Louisville, KY 40207	$766.85	$25.00	$741.85
Check # T15027388 dated July 7, 1987			
Doris Downs 4700 Trowbridge Terrace, Apt. 102 Louisville, KY 40207	$483.39	$25.00	$458.39
Check # T3394978 dated May 6, 1996			

Mable Elkins 135 Stoll Avenue Louisville, KY 40206	$281.00	$25.00	$256.00
Check # E1532671 dated June 8, 1999 Janet R. Fleming 314 Skyline Park Drive Hopkinsville, KY 42240	$4,035.00	$25.00	$4,010.00
Check # CS4466882 dated April 28, 1998 William T. Francis c/o Dianne Darnell, CHFS Child Support P.O. Box 2150 Frankfort, KY 40602-2150	$29.99	$25.00	$4.99
Check # Y10656753 dated July 30, 2001 Patsy Frazier c/o Dianne Darnell, CHFS Child Support P.O. Box 2150 Frankfort, KY 40602-2150	$700.00	$25.00	$675.00
Check # T18783541 dated March 14, 2001 Timothy & J. Freimuth 71 Wellington Drive Florence, KY 41042	$1,309.00	$25.00	$1,284.00
Check # T15875285 dated June 11, 1998 Gay H. Guthrie c/o Farison Lawn Care 11500 Electron Drive Louisville, KY 40299-3858	$555.00	$25.00	$530.00
Check # G11601980 dated October 11, 2000 Harlan County Sheriff's Office P.O. Box 978 Harlan, KY 40831	$100.00	$25.00	$75.00
Check # T18776276 dated March 13, 2001 Paul J. & K.C. Isaac 75 Prospect Avenue Larchmont, NY 10538	$120.17	$25.00	$95.17
Check # T4147188 dated June 3, 1986 Loretta & Sindin Jobs 301 North 12th Street, Suite H Murray, KY 42071	$1,137.00	$25.00	$1,112.00
Check # T4686058 dated May 21, 1997 Timothy Kaelin P.O. Box 7993 Louisville, KY 40257	$266.39	$25.00	$241.39
Check # G2834296 dated February 11, 1997 Melanie W. Kelley 2714 S.R. 1181 Bardwell, KY 42023	$50.88	$25.00	$25.88
Check # B100256754 dated March 8, 2001 Ken Tenn Raceway, Inc.			

P.O. Box 729 Morehead, KY 40351	$40.00	$25.00	$15.00
Check # T4372298 dated April 11, 1997 Kathryn E. Kerber 21550 Westport Avenue Euclid, OH 44123	$197.00	$25.00	$172.00
Check # T17615735 dated June 29, 1990 John C. & I. M. Lewis P.O. Box 314 Baxter, KY 40806	$85.84	$25.00	$60.84
Check # GT0541289 dated April 13, 1998 Lil Kings & Queens Childcare Attn: Jaque O'Neal Thomas, CEO 3216 Dumesnil Street Louisville, KY 40211	$8,467.27	$25.00	$8,442.27
Check # Y12318776 dated June 5, 1996 Cynthia Smith Love c/o Dianne Darnell, CHFS Child Support P.O. Box 2150 Frankfort, KY 40602-2150	$60.00	$25.00	$35.00
Check # T5900437 dated August 18, 1998 Minda McCandless 2011 NE Clackamas Street, #9 Portland, OR 97232	$557.00	$25.00	$532.00
Check # T3722463 dated June 1, 1996 Gary Musgrave 659 Ridgeway Drive Taylor Mill, KY 41015	$106.00	$25.00	$81.00
Check # T16455731 dated March 29, 1999 Khoa N. Nguyen 7218 Lawn Side Drive Louisville, KY 40214	$92.00	$25.00	$67.00
Check # T18228466 dated May 25, 2000 Sergio & Mary Pisterman P.O. Box 23376 Louisville, KY 40223	$484.00	$25.00	$459.00
Check # E11797893 dated August 6, 2001 Jose Rodriquez 1110 Old Barren River Road Bowling Green, KY 42101	$100.00	$25.00	$75.00
Check # G11866928 dated December 14, 2000 Judy A. Roper 112 Oak Meadow Drive Berea, KY 40403	$48.00	$25.00	$23.00
Check # T14021402 dated May 15, 1986 Bobby C. & V. Rose P.O. Box 234 Stamping Ground, KY 40379	$70.00	$25.00	$45.00

Check # L12471388 dated December 3, 1999 Fonso Smith c/o Marsha Hall, Department of Labor 1047 US 127 South, Suite 4 Frankfort, KY 40601	$105.22	$25.00	$80.22
Check # L12471375 dated December 3, 1999 Fonso Smith c/o Marsha Hall, Department of Labor 1047 US 127 South, Suite 4 Frankfort, KY 40601	$2,065.89	$25.00	$2,040.89
Check # T5757724 dated May 20, 1998 Charlotte H. Stirman c/o Janet Masterson P.O. Box 36010 Louisville, KY 40233	$249.78	$25.00	$224.78
Check # Y18974323 dated October 4, 2000 Linda Tingle c/o Dianne Darnell, CHFS Child Support P.O. Box 2150 Frankfort, KY 40602-2150	$75.77	$25.00	$50.77
Check # P16047044 dated April 7, 2000 Rep. Robin L. Webb c/o Legislative Research Commission 700 Capital Avenue Frankfort, KY 40601	$1,613.73	$25.00	$1,588.73
Check # G10933097 dated April 4, 2000 Rep. Robin L. Webb c/o Legislative Research Commission 700 Capital Avenue Frankfort, KY 40601	$1,496.00	$25.00	$1,471.00
Check # E11603374 dated September 2, 1999 Ann Wheeler c/o John Wheeler 3204 Breckenwood Drive Lexington, KY 40502	$101.00	$25.00	$76.00
Check # Y14661051 dated June 8, 1998 Melissa Harvey White c/o Dianne Darnell, CHFS Child Support P.O. Box 2150 Frankfort, KY 40602-2150	$750.00	$25.00	$725.00

Section 2. The Finance and Administration Cabinet and the State Treasurer are authorized to pay the following listed claims from the following funds:

(1) The Education Cabinet is authorized to make payment from their Unemployment Compensation Fund for state treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five years from the date of issuance of the checks, the amounts listed below:

	Payee	Treasury Fee	Total Check
Check # U14169823 dated October 20, 2000 Wilma J. Haskins 3853 Darlene Drive			

Louisville, KY 40216	$632.00	$25.00	$607.00

Section 3. Whereas the persons and companies named above have furnished in good faith the services, supplies, and materials enumerated, and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 321, AN ACT relating to delinquent property taxes.

WHEREAS, the Court of Appeals issued an opinion in the case of Flag Drilling Company, Inc. v. Commonwealth of Kentucky, Revenue Cabinet, which was released for publication on March 24, 2005, in which the court held that private purchasers of certificates of delinquency are entitled to collect reasonable attorneys' fees and costs from individuals paying certificates of delinquency; and

WHEREAS, prior to the issuance of that opinion, private purchasers were not permitted to collect reasonable attorneys' fees and costs from individuals paying certificates of delinquency; and

WHEREAS, since the issuance of that opinion, it has come to the attention of the General Assembly that some private purchasers have been attempting to exact unconscionable attorneys' fees and costs from individuals paying certificates of delinquency, and that some private purchasers have made it very difficult for taxpayers to make payments on certificates of delinquency by not providing sufficient contact information to taxpayers; and

WHEREAS, it is the intent of the General Assembly, through the enactment of the provisions of Section 1 of this Act, to establish a reasonable amount that may be collected by private purchasers for costs and attorneys' fees, and to require private purchasers of certificates of delinquency to provide contact information to taxpayers so that taxpayers may pay certificates of delinquency;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) (a) The provisions of this subsection are intended to:

1. Establish a reasonable amount of costs and fees that may be collected by a private purchaser from the person paying the certificate of delinquency; and

2. Apply to all private purchasers holding certificates of delinquency on the effective date of this Act, as well as private purchasers that may purchase certificates of delinquency in the future.

(b) Notwithstanding any other provisions of this chapter, a private purchaser of a certificate of delinquency shall be entitled to collect only the following:

1. The amount actually paid to purchase the certificate of delinquency;

2. Interest accrued subsequent to the date the certificate of delinquency was purchased as provided in Section 6 of this Act; and

3. Actual attorneys' fees and any other actual expenses, not to exceed thirteen percent (13%) of the amount actually paid for the certificate of delinquency.

(2) A private purchaser holding a certificate of delinquency on the effective date of this Act shall, regardless of when that certificate of delinquency was purchased, send to the property owner by January 31, 2008, the following information:

(a) The legal name of the purchaser;

(b) The purchaser's physical address;

(c) The purchaser's mailing address for payments, if different from the physical address; and

(d) The purchaser's telephone number.

(4) The provisions of subparagraph 4. of paragraph (b) of subsection (1) of Section 5 of this Act, relating to notice if contact information changes, shall apply to all private purchasers of certificates of delinquency regardless of when the certificate of delinquency was purchased.

Section 2. KRS 134.420 is amended to read as follows:

(1) *(a)* The state and each county, city, or other taxing district shall have a lien on the property assessed for taxes due them respectively for ten (10) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440.

(b) This lien shall not be defeated by gift, devise, sale, alienation, or any means except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering the taxes.

(c) The lien shall include all interest, penalties, fees, commissions, charges, costs,[~~reasonable~~] attorney fees, and other expenses *as provided by this chapter that have been* incurred by reason of delinquency in payment of the tax bill

or certificate of delinquency or in the process of collecting either, and shall have priority over any other obligation or liability for which the property is liable.

(d) The lien of any city, county, or other taxing district shall be of equal rank with that of the state.

(e) When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(f) Every city of the third, fourth, fifth, and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.

(2) If any person liable to pay any tax administered by the Department of Revenue, other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(3) The lien imposed by subsection (2) of this section shall remain in force for ten (10) years from the date the notice of tax lien has been filed by the commissioner of the Department of Revenue, or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.

(4) The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the commissioner of the Department of Revenue or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the Department of Revenue shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

Section 3. KRS 134.460 is amended to read as follows:

[~~(1) Certificates of delinquency shall bear interest from the date of issuance until collected at the rate of twelve percent (12%) per annum simple interest. A fraction of a month is counted as an entire month. The total amount of the certificate of delinquency, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in KRS 67C.115 shall be included in the base for the interest calculation.~~

~~(2)~~]Certificates of delinquency shall be prima facie evidence that:

(1)[~~(a)~~]The property represented by the certificate was subject to taxes levied thereon, and was assessed as required by law.

(2)[~~(b)~~] The tax bill was valid and correct in all respects.

(3)[~~(c)~~]The taxes were not paid at any time before the issuance of the certificate.

Section 4. KRS 134.480 is amended to read as follows:

(1) ***(a)*** The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the ***claim is purchased by the sheriff on behalf of the*** state, county, or taxing district ***pursuant to KRS 134.450(2)***[~~was the purchaser~~].

(b) When a certificate is paid to an owner other than the state, county, or taxing district, the assignee shall mark paid in full on the certified copy of the certificate and shall surrender the certified copy of the certificate of delinquency to the person making payment, and***,*** if ***the person making payment***[~~he~~] is the person primarily liable on the certificate***, the person***[~~ he~~] may file it with the county clerk and have the certificate released of record.

(c) When a certificate of delinquency has been fully paid to the state, county, and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by ***the person***[~~him~~], and such other information as the department[~~ of Revenue~~] may require. The clerk shall mark the certificate of delinquency paid in full. Payment in such instance by one other than the person primarily liable on the certificate will amount to an assignment ***of the certificate of delinquency***[~~thereof~~]. ***The payor shall be subrogated to the lien priority of the state, county, or taxing districts as provided in subsection (1) of Section 2 of this Act, and the certificate of delinquency shall be collectible as provided in this subsection and subsection (2) of this section.*** The clerk shall note the assignment on the certificate of delinquency and provide the assignee a certified copy of the certificate of delinquency, or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency.

(d) Anyone other than the person primarily liable who pays a certificate or purchases it from an owner other than the state, county, and taxing district may, by paying a fee pursuant to KRS 64.012, have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors, or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise ***the person***[~~he~~] shall pay a fee pursuant to KRS 64.012 to the clerk for entering such change on the certificate.

(2) ***(a)*** The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county, and taxing districts, and ***the clerk***[~~he~~] shall give a receipt to the payor and make a report to the department[~~ of Revenue~~], the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days.

(b) The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards.

(c) The clerk[~~He~~] shall pay to the department[~~ of Revenue~~] for deposit with the State Treasurer all moneys collected by ***the clerk***[~~him~~] due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. ***The clerk***[~~He~~] shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto.

(d) The clerk[~~He~~] shall retain ten percent (10%) of the amount due each taxing unit ***as a fee*** for[~~ his~~] services ***provided***[~~as a fee~~]. This fee shall be added to the amount of the tax claim and paid by the persons paying the tax claim.

(3) ***(a) A***[~~If the~~] person entitled to pay a certificate of delinquency ***who is having difficulty locating a private purchaser to make payment on a certificate of delinquency may send***[~~sends~~] a registered letter addressed to ***the private purchaser who is*** the owner of record of the certificate***. If***[~~, other than the state, county, or taxing district, and~~] the letter is returned by mail unclaimed, ***or if the private purchaser fails to respond within fifteen (15) days,*** the sender ***may provide proof that the letter was returned or that the private purchaser did not respond within fifteen (15) days to the county clerk, and***[~~thereof~~] may ***then*** make payment to the county clerk, who shall make the necessary assignment or release and deposit the money in an escrow account for this specific purpose in the nearest bank having its deposits insured with the Federal Deposit Insurance Corporation. ***The county clerk may maintain one (1) escrow account for all deposits made pursuant to this paragraph and shall maintain a record reflecting the amount due each private purchaser.***

(b) The clerk may deduct the sum of ***twenty dollars ($20)***[~~ten dollars ($10)~~] as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

(c) The clerk shall mail a copy of the certificate by regular mail to the owner of record of the certificate at the address on the certificate.

(4) If any clerk fails to pay to the person entitled thereto, upon ***written*** demand, the money received in payment of a certificate of delinquency, ***the clerk***[~~he~~] and ***the clerk's***[~~his~~] sureties shall be liable for the same and twenty percent (20%) interest thereon annually from the ***fifteenth day after the*** time ***the clerk***[~~he~~] received ***the written demand***[~~it~~] until paid.

(5) Copies of the records provided for in KRS 134.450 and this section, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 5. KRS 134.490 is amended to read as follows:

(1) Within fifty (50) days after the issuance of a certificate of delinquency to a private purchaser, the private purchaser shall give the same notice as required of a county attorney in KRS 134.500***(3)***[~~(2)~~].

(a) The notice shall advise the owner that***:***

1. The certificate is a lien of record against all property of the owner***;***[~~, and~~]

2. The certificate bears interest at the rate ***provided in Section 6 of this Act;***[~~of twelve percent (12%) per annum,~~] and

3. If the certificate is not paid, it will be subject to collection as provided by law.

(b) In addition, the notice shall provide the following information to the taxpayer:

1. The legal name of the purchaser;

2. The purchaser's physical address;

3. The purchaser's mailing address for payments, if different from the physical address; and

4. The purchaser's telephone number.

If the information required by this paragraph changes, the purchaser shall send a notice to the taxpayer by registered mail with the corrected information. Failure to send the original notice or any correction notices shall result in the suspension of the accrual of all interest and any fees incurred by the purchaser after that date until proper notice is given as required by this subsection.

(2) If a private person is the owner of a certificate of delinquency, ***the private purchaser***[~~he~~] may, after the expiration of the one (1) year period provided in KRS 134.470:

(a) Institute an action against the delinquent taxpayer to collect the amount of the certificate, and any other certificates subsequently issued to the same owner against the same delinquent, and shall have all the remedies available for the enforcement of a debt; or

(b) Institute an action to enforce the lien provided in subsection (1) of KRS 134.420, represented by the certificate that is more than one (1) year of age, and those certificates subsequently held by the same owner against the same delinquent or property; or

(c) Institute one (1) action including both types of actions mentioned in paragraphs (a) and (b) of this subsection, and the joinder of actions shall not be defeated if the delinquent taxpayer has disposed of any property covered by the lien, but the purchaser of the property shall be made a defendant if the judgment is to affect his interest in the property, and as between them the delinquent taxpayer shall be responsible.

(3) If the state, county, or a taxing district is the owner of a certificate of delinquency, it shall have, after the expiration of the one (1) year period provided in KRS 134.470, in addition to the remedies mentioned in subsection (2) of this section, the right to distrain and sell any property owned by the delinquent, including that on which the lien provided in subsection (1) of KRS 134.420 has attached. Any property sold under distraint proceedings shall be sold in the same manner as provided in KRS 134.430 and 134.440, except that the exercise of the power shall be vested in the county attorney.

(4) If property is sold pursuant to a judgment of foreclosure, it shall be appraised pursuant to the provisions of KRS 426.520 and there shall be a right of redemption as provided in KRS 426.530. If there is no purchaser at a foreclosure sale, the master commissioner shall make a deed to the person or persons shown by record to be the owner of the certificate or certificates of delinquency, and they shall have a pro rata interest in accordance with the amount of their respective certificates.

Section 6. KRS 134.500 is amended to read as follows:

(1) (a) [~~Certificates of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The five dollar ($5) sheriff's fee, the advertising costs provided in KRS 134.420, the clerk's add on fee provided in KRS 134.480, and the county attorney's add on fee provided in this section shall be included in the interest calculation in counties containing cities of the first class or consolidated local government and shall be excluded in other counties, except upon adoption of an ordinance by a county to include in the interest calculation the fees provided for in KRS 134.420, the clerk's add on fee provided in KRS 134.480, and the county attorney's add on fee provided in this section. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he or she makes the next regular settlement.~~

~~(b)~~]A certificate of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. ***The amount on which interest is calculated includes the following:***

1. The face amount of the tax due;

2. The ten percent (10%) penalty;

3. The five dollar ($5) sheriff's fee; and

4. Advertising costs incurred.

(b) If a certificate of delinquency is paid by a private purchaser, the amount paid by the private purchaser shall become the base amount upon which interest is calculated from the date of purchase until paid[~~The total amount of the certificate of delinquency, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be included in the base for the interest calculation~~].

(2) All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(3)[~~(2)~~] The department shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the department shall first offer the collection duties to the county attorney, unless the department determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the department on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the department[~~of Revenue~~] shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(4)[~~(3)~~] The county attorney who enters into a contract with the department shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the department may assume responsibility for all uncollected bills except those with pending court action.

(5)[~~(4)~~] The county attorney who enters into a contract with the department and performs his or her duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action or files a cross-claim, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(6)[~~(5)~~] If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the department shall assume responsibility for the collection process. In the performance of those duties, the department shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the department by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the department for deposit in the delinquent tax fund provided for under KRS 134.400.

(7)[~~(6)~~] Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the commissioner, and the petition may be sent to the department, which may require revision in instances where it deems revision or amendment necessary. The department shall advise the county attorney in all actions, and may send him or her special assistance when the commissioner deems assistance necessary. A copy of the judgment shall also be sent to the department. If the department sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his or her full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(8)[~~(7)~~] The department may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the department to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the department.

(9)~~[(8)]~~ The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

Section 7. KRS 134.990 is amended to read as follows:

(1) Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars ($100) for each offense.

(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and conviction in the county in which the act was done, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be removed from office.

(3) Any sheriff who violates subsection (3) of KRS 134.170 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(4) Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars ($500) for each offense.

(5) Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and be liable on his bond for any default.

(6) Any sheriff who fails to report as required in KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Any person who willfully fails to comply with any rule or regulation promulgated under subsection (4) of KRS 134.380 shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(9) Any sheriff who violates subsection (5) of KRS 134.430 shall be fined one hundred dollars ($100) and be liable on his official bond for the damages sustained by any person aggrieved.

(10) Any county attorney who fails to prepare, and any sheriff who fails to serve, the notice provided for in subsection *(3)*~~[(2)]~~ of KRS 134.500 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(11) Any sheriff who intentionally fails to keep his books in an intelligible manner and according to the form prescribed by the Department of Revenue, or to make the entries required by law, shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each offense.

(12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

HB 326, AN ACT relating to the allocation of excess Support Education Excellence in Kentucky (SEEK) funds, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; D. Department of Education; 4. Support Education Excellence in Kentucky (SEEK) Program, at pages 1171 to 1173, is amended to read as follows:

4. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

	2006-07	**2007-08**
General Fund	2,680,910,200	2,930,340,800

(1) Common School Fund Earnings: Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

(2) Base SEEK Allotments: The above appropriation includes $2,089,483,300 in fiscal year 2006-2007 and $2,312,486,700 in fiscal year 2007-2008 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is $211,953,500 in fiscal year 2006-2007 and $214,752,800 in fiscal year 2007-2008 for pupil transportation.

(3) Tier I Component: Included in the above appropriation is $157,620,900 in fiscal year 2006-2007 and $161,638,900 in fiscal year 2007-2008 for the Tier I component as established by KRS 157.440.

(4) Vocational Transportation: Included in the above appropriation is $2,416,900 in fiscal year 2006-2007 and $2,416,900 in fiscal year 2007-2008 for vocational transportation.

(5) Secondary Vocational Education: Included in the above appropriation is $23,053,800 in fiscal year 2006-2007 and $23,561,000 in fiscal year 2007-2008 to provide secondary vocational education in state-operated vocational schools.

(6) **Teachers' Retirement System Employer Match:** Included in the above appropriation is $319,184,300 in fiscal year 2006-2007 and $346,100,400 in fiscal year 2007-2008 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

(7) **Salary Supplements for Nationally Certified Teachers:** Notwithstanding KRS 157.395, included in the above appropriation is $2,104,000 in fiscal year 2006-2007 and $2,504,000 in fiscal year 2007-2008 for the purpose of providing salary supplements for teachers attaining certification by the National Board for Professional Teaching Standards.

(8) **Allocation of SEEK Funds:** Notwithstanding KRS 157.360(2)(c), the above appropriation to the base SEEK Program is intended to provide a base guarantee of $3,508 per student in average daily attendance in fiscal year 2006-2007 and $3,822 per student in average daily attendance in fiscal year 2007-2008 as well as to meet the other requirements of KRS 157.360.

Nothing in this Act shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

(9) **Local School District Certified and Classified Employee Pay Policy:** Notwithstanding KRS 157.420, during fiscal year 2006-2007, local school districts shall provide all certified staff a salary or compensation increase of not less than two percent and, during fiscal year 2007-2008, local school districts shall provide all certified staff a salary or compensation increase of not less than $3,000. The salary increases in fiscal year 2006-2007 and fiscal year 2007-2008 for certified staff shall be in addition to the normal rank and step increase attained by certified personnel employed by local school districts. During fiscal year 2006-2007, local school districts shall provide all classified staff a salary increase of two percent and, during fiscal year 2007-2008, local school districts shall provide all classified staff a salary increase of five percent. In fiscal year 2007-2008, no classified staff member shall receive a salary increase in excess of $2,500. Classified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the salary increase based on terms of their employment. The above increase in fiscal year 2006-2007 and fiscal year 2007-2008 for classified staff shall be in addition to a normal step increase or any increase that might result from assuming new duties or obtaining additional qualifications.

(10) **Final SEEK Calculation:** Notwithstanding KRS 157.410, on or before March 1 of each year, the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

(11) **SEEK Adjustment Factors:** Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

(12) **Facilities Support Program of Kentucky/Equalized Nickel Levies:** Included in the above appropriation is $67,749,200 in fiscal year 2006-2007 and $63,970,700 in fiscal year 2007-2008 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620. Included in the above appropriation is $12,177,600 in fiscal year 2006-2007 and $11,134,200 in fiscal year 2007-2008 to provide facilities equalization funding pursuant to KRS 157.440, 157.620, and 157.621(2) and (3) for local school districts which have: (a) Levied the additional tax pursuant to KRS 157.621 for debt service and new facilities as of January 1, 2006; (b) Levied the five cents under the provisions of KRS 157.440; (c) Met the growth requirements in KRS 157.621(2) in fiscal year 2005-2006; and (d) Levied an additional nickel tax pursuant to KRS 157.621 in addition to (a) and (b) of this section by January 1, 2006.

(13) **Retroactive Equalized Facility Funding:** Included in the above appropriation is $2,302,500 in fiscal year 2006-2007 and $2,076,400 in fiscal year 2007-2008 to provide equalized facility funding to districts meeting the following eligibility requirements: A local board of education that levied a tax rate subject to recall in fiscal year during or prior to fiscal year 2003-2004 in addition to the five cents levied pursuant to KRS 157.440(1)(b) and that committed the receipts to debt service, new facilities, or major renovations of existing facilities shall be eligible for equalization funds from the state at 150 percent of the statewide average per pupil assessment. The equalization funds shall be used as provided in KRS 157.440(1)(b).

(14) **Equalized Facility Funding:** Included in the above General Fund appropriation is $4,617,700 in fiscal year 2006-2007 and $4,451,600 in fiscal year 2007-2008 to provide equalized facility funding to districts meeting the following eligibility requirements: (a) The board of education has levied at least a ten cent equivalent tax rate for building purposes or has debt service of at least a ten cent equivalent tax rate as of February 24, 2005; (b) The district has not received equalized growth facility funding as a result of 2005 Ky. Acts ch. 173, Part I, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program; and (c) The district has received approval by the Commissioner of Education. Eligible districts shall receive equalization funds from the state at 150 percent of the statewide average per pupil assessment, and these funds shall be used as provided in

KRS 157.440(1)(b).

(15) **School Employee Flexible Spending Account Funds Transfer:** Any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2006 and calendar year 2007 shall be transferred to the credit of the General Fund.

(16) **Instructional Days:** Included in the above General Fund appropriation is $32,600,000 to extend the school term in fiscal year 2007-2008 by an additional two instructional days. Notwithstanding KRS 158.070, the school term for fiscal year 2007-2008 shall include the equivalent of 177 instructional days and shall include no less than two additional six-hour instructional days in addition to the six-hour instructional days included in the 2005-2006 school calendar as approved by the Department of Education. Districts shall not be required to exceed 177 six-hour instructional days.

(17) **Facility Matching Grant:** Included in the above General Fund appropriation is $200,000 in fiscal year 2006-2007 for a matching grant to the Hardin County Educational Foundation, Inc. for the completion of the John Hardin Performing Arts Center.

(18) **Transportation Study:** The Legislative Research Commission is hereby directed to study the current funding formula and the equitable disbursement of pupil transportation funds. The study of pupil transportation funding shall include:

(a) An analysis of the current formula used to determine the level of reimbursed funding for school districts, including its equity and adequacy, and recommendations for improvement; and

(b) A comparison of the efficiencies used by school districts in the operation of their transportation systems, including recommendations for efficiency requirements or incentives.

The Legislative Research Commission shall contract with nongovernmental consultants to conduct the study. The consultants shall have the full cooperation of the Executive Branch and the Legislative Branch.

The consultants shall present a final report of their findings to the Interim Joint Committee on Education and to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2007.

Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

(19) Allocation of Excess SEEK Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) funds are intended to provide a base guarantee of $3,508 per student in average daily attendance in fiscal year 2006-2007 and $3,822 per student in average daily attendance in fiscal year 2007-2008 as well as to meet the other requirements of KRS 157.360, except for KRS 157.360(2)(c). Excess funds that exist after the SEEK base has been fully funded in each fiscal year shall be reallocated for the purpose of providing salary improvements for KRS 151B employees and to provide additional SEEK funding to local school districts. In fiscal year 2006-2007, $1,000,000 of excess SEEK funds shall be transferred to the Office of Career and Technical Education, Education Cabinet, for the purpose of providing salary improvements for KRS 151B employees in fiscal year 2007-2008. The remaining excess SEEK funds shall be reallocated to local school districts in accordance with 702 KAR 3:270 promulgated to comply with the provisions of KRS 157.310 to 157.440. The per pupil base guarantee shall be adjusted accordingly. The Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education, shall certify that excess funds are available.

Section 2. Whereas Support Education Excellence in Kentucky (SEEK) funds are imperative to the students of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 326** is as follows:

HB 326, AN ACT relating to the allocation of excess Support Education Excellence in Kentucky (SEEK) funds, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; D. Department of Education; 4. Support Education Excellence in Kentucky (SEEK) Program, at pages 1171 to 1173, is amended to read as follows:

4. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

	2006-07	**2007-08**
General Fund	*2,681,182,900*	*2,930,595,600*
[~~General Fund~~	~~2,680,910,200~~	~~2,930,340,800~~]

(1) **Common School Fund Earnings:** Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

(2) **Base SEEK Allotments:** The above appropriation includes $2,089,483,300 in fiscal year 2006-2007 and $2,312,486,700 in fiscal year 2007-2008 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the

SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is $211,953,500 in fiscal year 2006-2007 and $214,752,800 in fiscal year 2007-2008 for pupil transportation.

(3) **Tier I Component:** Included in the above appropriation is $157,620,900 in fiscal year 2006-2007 and $161,638,900 in fiscal year 2007-2008 for the Tier I component as established by KRS 157.440.

(4) **Vocational Transportation:** Included in the above appropriation is $2,416,900 in fiscal year 2006-2007 and $2,416,900 in fiscal year 2007-2008 for vocational transportation.

(5) **Secondary Vocational Education:** Included in the above appropriation is $23,053,800 in fiscal year 2006-2007 and $23,561,000 in fiscal year 2007-2008 to provide secondary vocational education in state-operated vocational schools.

(6) **Teachers' Retirement System Employer Match:** Included in the above appropriation is $319,184,300 in fiscal year 2006-2007 and $346,100,400 in fiscal year 2007-2008 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

(7) **Salary Supplements for Nationally Certified Teachers:** Notwithstanding KRS 157.395, included in the above appropriation is $2,104,000 in fiscal year 2006-2007 and $2,504,000 in fiscal year 2007-2008 for the purpose of providing salary supplements for teachers attaining certification by the National Board for Professional Teaching Standards.

(8) **Allocation of SEEK Funds:** Notwithstanding KRS 157.360(2)(c), the above appropriation to the base SEEK Program is intended to provide a base guarantee of $3,508 per student in average daily attendance in fiscal year 2006-2007 and $3,822 per student in average daily attendance in fiscal year 2007-2008 as well as to meet the other requirements of KRS 157.360.

Nothing in this Act shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

(9) **Local School District Certified and Classified Employee Pay Policy:** Notwithstanding KRS 157.420, during fiscal year 2006-2007, local school districts shall provide all certified staff a salary or compensation increase of not less than two percent and, during fiscal year 2007-2008, local school districts shall provide all certified staff a salary or compensation increase of not less than $3,000. The salary increases in fiscal year 2006-2007 and fiscal year 2007-2008 for certified staff shall be in addition to the normal rank and step increase attained by certified personnel employed by local school districts. During fiscal year 2006-2007, local school districts shall provide all classified staff a salary increase of two percent and, during fiscal year 2007-2008, local school districts shall provide all classified staff a salary increase of five percent. In fiscal year 2007-2008, no classified staff member shall receive a salary increase in excess of $2,500. Classified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the salary increase based on terms of their employment. The above increase in fiscal year 2006-2007 and fiscal year 2007-2008 for classified staff shall be in addition to a normal step increase or any increase that might result from assuming new duties or obtaining additional qualifications.

(10) **Final SEEK Calculation:** Notwithstanding KRS 157.410, on or before March 1 of each year, the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

(11) **SEEK Adjustment Factors:** Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

(12) **Facilities Support Program of Kentucky/Equalized Nickel Levies:** Included in the above appropriation is $67,749,200 in fiscal year 2006-2007 and $63,970,700 in fiscal year 2007-2008 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620. Included in the above appropriation is $12,177,600 in fiscal year 2006-2007 and $11,134,200 in fiscal year 2007-2008 to provide facilities equalization funding pursuant to KRS 157.440, 157.620, and 157.621(2) and (3) for local school districts which have: (a) Levied the additional tax pursuant to KRS 157.621 for debt service and new facilities as of January 1, 2006; (b) Levied the five cents under the provisions of KRS 157.440; (c) Met the growth requirements in KRS 157.621(2) in fiscal year 2005-2006; and (d) Levied an additional nickel tax pursuant to KRS 157.621 in addition to (a) and (b) of this section by January 1, 2006.

(13) **Retroactive Equalized Facility Funding:** Included in the above appropriation is ***$2,575,200***[~~$2,302,500~~] in fiscal year 2006-2007 and ***$2,331,200***[~~$2,076,400~~] in fiscal year 2007-2008 to provide equalized facility funding to districts meeting the

following eligibility requirements: A local board of education that levied a tax rate subject to recall ***prior to January 1, 2006,***~~[in fiscal year during or prior to fiscal year 2003-2004]~~ in addition to the five cents levied pursuant to KRS 157.440(1)(b) and that committed the receipts to debt service, new facilities, or major renovations of existing facilities shall be eligible for equalization funds from the state at 150 percent of the statewide average per pupil assessment. The equalization funds shall be used as provided in KRS 157.440(1)(b).

(14) **Equalized Facility Funding:** Included in the above General Fund appropriation is $4,617,700 in fiscal year 2006-2007 and $4,451,600 in fiscal year 2007-2008 to provide equalized facility funding to districts meeting the following eligibility requirements: (a) The board of education has levied at least a ten cent equivalent tax rate for building purposes or has debt service of at least a ten cent equivalent tax rate as of February 24, 2005; (b) The district has not received equalized growth facility funding as a result of 2005 Ky. Acts ch. 173, Part I, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program; and (c) The district has received approval by the Commissioner of Education. Eligible districts shall receive equalization funds from the state at 150 percent of the statewide average per pupil assessment, and these funds shall be used as provided in KRS 157.440(1)(b).

(15) **School Employee Flexible Spending Account Funds Transfer:** Any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2006 and calendar year 2007 shall be transferred to the credit of the General Fund.

(16) **Instructional Days:** Included in the above General Fund appropriation is $32,600,000 to extend the school term in fiscal year 2007-2008 by an additional two instructional days. Notwithstanding KRS 158.070, the school term for fiscal year 2007-2008 shall include the equivalent of 177 instructional days and shall include no less than two additional six-hour instructional days in addition to the six-hour instructional days included in the 2005-2006 school calendar as approved by the Department of Education. Districts shall not be required to exceed 177 six-hour instructional days.

(17) **Facility Matching Grant:** Included in the above General Fund appropriation is $200,000 in fiscal year 2006-2007 for a matching grant to the Hardin County Educational Foundation, Inc. for the completion of the John Hardin Performing Arts Center.

(18) **Transportation Study:** The Legislative Research Commission is hereby directed to study the current funding formula and the equitable disbursement of pupil transportation funds. The study of pupil transportation funding shall include:

(a) An analysis of the current formula used to determine the level of reimbursed funding for school districts, including its equity and adequacy, and recommendations for improvement; and

(b) A comparison of the efficiencies used by school districts in the operation of their transportation systems, including recommendations for efficiency requirements or incentives.

The Legislative Research Commission shall contract with nongovernmental consultants to conduct the study. The consultants shall have the full cooperation of the Executive Branch and the Legislative Branch.

The consultants shall present a final report of their findings to the Interim Joint Committee on Education and to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2007.

Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

(19) Allocation of Excess SEEK Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) funds are intended to provide a base guarantee of $3,508 per student in average daily attendance in fiscal year 2006-2007 and $3,822 per student in average daily attendance in fiscal year 2007-2008 as well as to meet the other requirements of KRS 157.360, except for KRS 157.360(2)(c). Excess funds that exist after the SEEK base has been fully funded in each fiscal year shall be reallocated for the purpose of providing salary improvements for KRS Chapter 151B employees and to provide additional SEEK funding to local school districts. In fiscal year 2006-2007, $1,000,000 of excess SEEK funds shall be transferred to the Office of Career and Technical Education, Education Cabinet, for the purpose of providing salary improvements for KRS Chapter 151B employees for both fiscal years 2006-2007 and 2007-2008. The remaining excess SEEK funds shall be reallocated to local school districts in accordance with 702 KAR 3:270 promulgated to comply with the provisions of KRS 157.310 to 157.440. The per pupil base guarantee shall be adjusted accordingly. The Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education, shall certify that excess funds are available.

Notwithstanding KRS 151B.035(12), for fiscal years 2006-2007 and 2007-2008, certified and equivalent employees of the Office of Career and Technical Education pursuant to KRS 151B.010 shall have the option to select a salary adjustment based on the provisions of Section 3. of Part IV, State Salary/Compensation and Employment Policy, of this Act or a salary adjustment of two percent for fiscal year 2006-2007 and, during fiscal year 2007-2008, a salary increase of $3,000. This selection shall be made for the 2006-2008 biennium on or before April 15, 2007, and shall remain in effect for both fiscal years 2006-2007 and 2007-2008. This paragraph shall be deemed to be retroactive and shall apply to actions on or after July 1, 2006.

Section 2. Whereas Support Education Excellence in Kentucky (SEEK) funds are imperative to the students of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 326** is as follows:

HB 326, Amend the title to read as follows: "AN ACT relating to the allocation of Support Education Excellence in Kentucky (SEEK) funds, making an appropriation therefor, and declaring an emergency."

HB 332, AN ACT relating to postsecondary institution debt.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Agency bonds issued by a public postsecondary education institution to finance capital projects authorized by the General Assembly shall not be included in any determination of the Commonwealth's debt ratios. Debt issued under Section 3 of this Act shall not constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Nor shall any debt issued under Section 3 of this Act be deemed to be a moral obligation of the Commonwealth.

Section 2. KRS 48.180 is amended to read as follows:

In addition to the information required by KRS 48.110, the Governor shall submit the following information as a separate part of the branch budget request for the executive branch of government:

(1) Summary statements of the financial condition of the state, which shall include such detailed schedules of revenues and summary of expenditures by fund as specified by law in addition to those the Governor deems desirable; and summary statements of the estimated fund balances for the current fiscal year and each of the next two (2) fiscal years; and statement of the surplus account for the general fund and the road fund, for the budget reserve trust fund account, and for each special fund. Each surplus account shall show the excess of all current revenues over all current expenditures as of the beginning of each of the two (2) fiscal years last concluded, and all changes in each surplus account during each of such two (2) fiscal years.

(2) A statement as of the close of the last completed fiscal year and as of the close of the current fiscal year, showing ***separately*** for the Commonwealth ***and for postsecondary institutions as issuers of agency bonds, as described in Section 1 of this Act,*** the total funded debt, the value of sinking fund assets, the net funded debt, the floating liabilities as of the close of the last completed fiscal year and the estimated floating liabilities as of the end of the current fiscal year, and the total debt as of the close of the last completed fiscal year and as of the close of the current fiscal year.

(3) A summary statement for each major fund of the cash resources estimated to be available at the beginning of each of the next two (2) fiscal years, and the estimated cash receipts of the fiscal year.

(4) Such other information as is deemed desirable or is required by law or regulation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The governing board of a postsecondary institution may issue agency bonds for a capital project only if that capital project is authorized by the General Assembly by title and project scope as an agency bonds project.

(2) Notwithstanding KRS 56.495 and 164A.605, a governing board may authorize expenditures totaling no more than six hundred thousand dollars ($600,000) for necessary financial analysis and project development prior to General Assembly authorization and may choose, independently of the Office of Financial Management, an underwriter, financial advisor, or bond counsel, notwithstanding KRS 45A.850. All funds advanced for this purpose shall be repaid from the proceeds of the bonds upon issuance.

(3) The governing board that issues agency bonds under this section shall not request an appropriation from the state general fund to pay debt service or other financing costs of the bonds. The governing board shall certify in writing prior to issuance of such agency bonds that the postsecondary institution will provide sufficient revenues to pay for all debt service related to any bonds issued to fund the project and all required operating expenses and submit a copy of the certification to the president of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, the executive director of the Office of Financial Management, and the Capital Projects and Bond Oversight Committee.

(4) All bonds issued under this section shall be obligations only of the governing board of the postsecondary institution, payable as to both principal and interest from the agency revenues pledged for that purpose. In no event shall the bonds be considered a debt for which the credit of the Commonwealth is pledged. Any resolution adopted under the provisions of this section shall constitute a contract between the postsecondary institution and the holder of any bond and shall be binding in all respects upon the postsecondary institution and its successors.

(5) The governing board shall specify by resolution the authorized project that is to be financed by the agency bonds. The resolution shall establish the rents, tolls, fees, and other charges to be pledged as security for the bonds.

(6) The agency revenues that are pledged to the payment of the agency bonds shall be sufficient at all times to provide for the payment of the principal and interest, and to pay the costs of operating and maintaining the project, to the extent

such expenses are not otherwise provided. The charges shall be revised from time to time so as to produce sufficient revenues prescribed by this section.

(7) The resolution shall fix the extent of the revenues pledged by the postsecondary institution, and may specify the terms and conditions upon which additional bonds may be thereafter issued and sold ranking on a parity with and payable from the same sources as the bonds authorized by such resolution.

(8) Upon General Assembly authorization of an agency bonds project, the governing board of the postsecondary institution may issue revenue bond anticipation notes or advance moneys from other legally available funds of the postsecondary institution in order to pay for the costs of land acquisition, site development, studies, professional services, and other costs incidental to the letting of construction bids. Any moneys advanced by the governing board may be reimbursed from the proceeds of such bonds.

HB 360, AN ACT relating to the streamlined sales and use tax agreement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

  (a) The retailer's cost of the property sold;

  (b) The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;

  (c) Charges by the retailer for any services necessary to complete the sale;

  (d) Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing; and

  (e) Any amount for which credit is given to the purchaser by the retailer, other than credit for property traded when the property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale.

(2) ***"Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:***

  (a) The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;

  (b) The retailer has an obligation to pass the price reduction or discount through to the purchaser;

  (c) The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and

  (d) One of the following criteria is met:

    1. The purchaser presents a coupon, certificate or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

    2. The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or

    3. The purchaser identifies himself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.

(3) "Gross receipts" and "sales price" shall not include:

  (a) Discounts, including cash, term, or coupons that are not reimbursed by a third party, and that are allowed by a retailer and taken by a purchaser on a sale;

  (b) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

  (c) Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

  (d) The amount charged for labor or services rendered in installing or applying the property or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(4) As used in this section, "third party" means a person other than the purchaser.

Section 2. KRS 139.105 is amended to read as follows:

(1) For purposes of the retailer's obligation to pay or collect and remit the taxes imposed by KRS 139.200 and 139.310, the retailer shall source the retail sale, excluding sales of communications services as follows:

(a) Over the counter. When the purchaser receives tangible personal property or service at a business location of the retailer, the sale is sourced to that business location.

(b) Delivery to a specified address. When a purchaser or purchaser's donee receives tangible personal property or service at a location specified by the purchaser, the sale is sourced to that location.

(c) Delivery address unknown. When the retailer of a product does not know the address where the tangible personal property or service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:

1. The address of the purchaser;
2. The billing address of the purchaser; or
3. The address from which the tangible personal property was shipped; from which the computer software was delivered electronically or was first available for transmission by the retailer; or from which the service was provided.

(2) The retailer shall source communications services as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's or other purchaser's place of primary use.

(b) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from its service provider, where the system used to transport the signals is not that of the retailer.

(c) A sale of prepaid calling service ***or a sale of a prepaid wireless calling service*** shall be sourced according to the provisions of subsection (1) of this section. If the sale is of a prepaid ***wireless*** calling service[~~ that is also a mobile telecommunications service~~] and the retailer does not know the address where the service is received, the sale shall be sourced to the first of the following that is known by the retailer:

1. The address of the customer available from the business records of the retailer;
2. The billing address of the customer;
3. The address from which the service was provided; or
4. The location associated with the mobile telephone number.

(d) A sale of a private communications service shall be sourced as follows:

1. Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.
2. Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.
3. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.
4. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(e) ***A sale of an ancillary service is sourced to the customer's place of primary use.***

(f) A sale of other communications services:

1. Sold on a call-by-call basis shall be sourced based on the taxing jurisdiction where the call either originates or terminates and in which the service address is also located; or

2. [~~A sale of other communications services~~]Sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.

(3) Nothing included in subsection (1) or (2) of this section shall affect the obligation of a purchaser to remit use tax pursuant to KRS 139.310.

Section 3. KRS 139.195 is amended to read as follows:

As used in KRS 139.105, 139.200, ***Section 6 of this Act,*** and 139.775:

(1) ***"Ancillary services" means services that are associated with or incidental to the provision of telecommunications services including, caller ID services, detailed communications billing, directory assistance, vertical services, conference bridging service, and voice mail services.***

(2) "***Air-to-ground***[~~Air-ground~~] radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(3)[~~(2)~~] "Call-by-call basis" means any method of charging for ***telecommunications***[~~communications~~] services where the price is measured by individual calls.

(4)[~~(3)~~] "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(5)[(4)] ***(a)*** "Communications service" means ***telecommunications services and ancillary services***[~~the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.~~

~~(a) "Communications service" includes but is not limited to:~~

~~1. Local and long-distance telephone services;~~

~~2. Telegraph and teletypewriter services;~~

~~3. Prepaid calling services and postpaid calling services;~~

~~4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;~~

~~5. Channel services involving a path of communications between two (2) or more points;~~

~~6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;~~

~~7. Caller ID services, voice mail and other electronic messaging services;~~

~~8. Mobile telecommunications service as provided in 4 U.S.C. sec. 124(7); and~~

~~9. Voice over Internet Protocol (VOIP)~~].

(b) "Communications service" does not include[~~ any of the following if the charges are separately itemized on the bill provided to the purchaser:~~

~~1. Information services;~~

~~2. Internet access as provided in the federal Internet Tax Nondiscrimination Act, 47 U.S.C. sec. 151;~~

~~3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;~~

~~4. The sale of directory and other advertising and listing services;~~

~~5. Billing and collection services provided to another communications service provider;~~

~~6. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996;~~

~~7.~~]the sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale ***if:***

1. The seller separately itemizes the charges for these services on the bill provided to the purchaser; or

2. The seller can identify, by reasonable and verifiable standards, the charges for these services from its books and records kept in the regular course of business for other purposes including nontax purposes. These services include[~~, including~~]:

a. Carrier access charges, excluding user access fees;

b. Right of access charges;

c. Interconnection charges paid by the provider of mobile telecommunications services or other communications providers;

d. Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is provided on an unbundled basis in accordance with 47 U.S.C. sec. 251(c)(3); and

e. Charges for use of facilities for providing or receiving communications service[~~; and~~

~~8. The sale of communications services provided to the public by means of a pay phone~~].

(6)[~~(5)~~] ***"Conference bridging services" means an ancillary service that links two (2) or more participants of an audio or video conference call and may include the provision of a telephone number. "Conference bridging services" does not include the telecommunications services used to reach the conference bridge.***

(7) "Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the communications service, but only as it applies to the sourcing of the sale of communications services as provided in KRS

139.105. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area.

(8)[~~(6)~~] "Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications.

(9) "Detailed telecommunications billing service" means an ancillary service of separately stated information pertaining to individual calls on a customer's billing statement.

(10) "Directory assistance" means an ancillary service of providing telephone number information or address information.

(11)[~~(7)~~] "End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity.

(12) "Fixed wireless service" means a telecommunications service that provides radio communications between fixed points.

(13)[~~(8)~~] "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).

(14) "International" means a service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a United States territory or possession.

(15) "Interstate" means a service that originates in one state of the United States or a United States territory or possession, and terminates in a different state of the United States or United States territory or possession.

(16) "Intrastate" means a service that originates in one state of the United States or a United States territory or possession, and terminates in the same state of the United States or a United States territory or possession.

(17)[~~(9)~~] "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7).

(18) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and termination points or the origination or termination points of the transmission, conveyance, or routing are not fixed, including, by the way of example only, telecommunications services that are provided by a commercial mobile radio service provider.

(19) "Paging service" means a telecommunications service that provides a transmission of coded radio signals for the purpose of activating specific pagers. Such transmissions may include messages or sounds.

(20) "Pay telephone service" means a telecommunications service provided through any pay telephone.

(21)[~~(10)~~] "Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider.

(22)[~~(11)~~] "Post-paid calling service" means a ***telecommunications***[~~communications~~] service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the ***telecommunications***[~~communications~~] service. A post-paid calling service includes a ***telecommunications***[~~communications~~] service***, except a prepaid wireless calling service,*** that would be a prepaid service except that it is not exclusively a ***telecommunications***[~~communications~~] service.

(23)[~~(12)~~] "Prepaid calling service" means the right to access exclusively ***telecommunications***[~~communications~~] services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(24) "Prepaid wireless calling service" means a telecommunications service that:

(a) Provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services;

(b) Must be paid for in advance; and

(c) Is sold in predetermined units of dollars of which the number declines with use in a known amount.

(25)[~~(13)~~] "Private communications service" means a ***telecommunications***[~~communications~~] service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels.

(26) "Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(27)[~~(14)~~] (a) "Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or

paid.

(b) If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

(c) If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use.

(28) "Telecommunications nonrecurring charges" means an amount billed for the installation, connection, change, or initiation of telecommunications service received by the customer.

(29) (a) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(b) "Telecommunications service" includes but is not limited to:

1. The transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice over Internet protocol (VOIP) services or is classified by the Federal Communications Commission as enhanced or value-added;

2. Paging services;

3. Telegraph and teletypewriter services;

4. Local and long distance telephone services;

5. Fixed wireless service;

6. Mobile wireless service;

7. Private communications service;

8. Telecommunications nonrecurring charges;

9. Value-added nonvoice data service;

10 800 service; and

11. 900 service.

(c) "Telecommunications service" does not include:

1. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information;

2. Installation or maintenance of wiring or equipment on a customer's premises;

3. Tangible personal property;

4. Advertising, including but not limited to directory advertising;

5. Billing and collection services provided to third parties;

6. Internet access service as defined in 47 U.S.C. sec. 151;

7. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to cable services as defined in 47 U.S.C. sec. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

8. Ancillary services;

9. Digital products delivered electronically, including but not limited to software, music, video, rating materials or ring tones; or

10. Telephone answering services.

(29) "Value-added nonvoice data service" means a service that otherwise meets the definition of telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for the purpose other than transmission, conveyance, or routing.

(30) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(31) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(32) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a

charge for the call. The service is typically marketed under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

(33) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live serve. "900 service" does not include the charge for collections services provided to the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission.

Section 4. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

(1) Retail sales, regardless of the method of delivery, made within this Commonwealth; and

(2) The furnishing of the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions except those taxed under KRS 138.480;

(d) Prepaid calling service~~[, which means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines in a known amount with use]~~;

(e) ***Intrastate, interstate and international*** communications service~~[to a service address in this state, other than mobile telecommunications services]~~ as defined in KRS 139.195, ***except the furnishing of pay telephone service as defined in KRS 139.195***~~[regardless of where those services are billed or paid, when the communications service:~~

~~1. Originates and terminates in this state;~~

~~2. Originates in this state; or~~

~~3. Terminates in this state]~~;

(f) Mobile telecommunications services ***and ring tones*** as defined in KRS 139.195, to a purchaser whose place of primary use is in this state; and

(g) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:

1. For natural gas that is classified as residential use as provided in KRS 139.470(8); or

2. To a seller or reseller of natural gas.

Section 5. KRS 139.210 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the tax shall be required to be collected by the retailer from the purchaser.~~[If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount.]~~ The tax shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(2) The department may relieve certain retailers from the provisions of subsection (1) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. If the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.

(3) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(4) The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

SECTION 6. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided by federal law, the following rules shall apply to a bundled transaction as defined in subsection (3) of this section, that includes any or all of a telecommunications service, ancillary service, Internet access, audio programming or video programming:

(a) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable product is subject to tax unless the provider can identify, by reasonable and verifiable standards, the portion of the products that are nontaxable from its books and records that are kept in the regular course of business for other purposes, including nontax purposes; or

(b) If the price is attributable to products that are subject to tax at different rates, the total price shall be treated as attributable to the products subject to tax at the highest rate unless the provider can identify, by reasonable and verifiable standards, the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including nontax purposes.

(2) The following rules shall apply to all bundled transactions except as provided in subsection (1) of this section:

(a) If the price is attributable to products where taxable and exempt tangible personal property have been bundled together and sold by the retailer as a bundled transaction, the entire charge is subject to tax; or

(b) If the price is attributable to products where taxable products and exempt services have been bundled together and sold by the retailer as a bundled transaction, the entire charge is subject to tax.

(3) (a) For purposes of this section, "bundled transaction" means the retail sale of two (2) or more products, except real property and services to real property, where:

1. The products are otherwise distinct and identifiable; and

2. The products are sold for one (1) nonitemized price.

(b) Distinct and identifiable products do not include:

1. Packaging such as containers, boxes, sacks, bags, bottles, wrapping, materials, labels, tags, or instruction guides that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples include grocery sacks, shoe boxes, dry cleaning garment bags and express delivery envelopes and boxes;

2. A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge; or

3. Items included in the definition of sales price pursuant to KRS 139.050.

(c) One (1) nonitemized price does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(4) A bundled transaction does not include:

(a) The retail sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction;

(b) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(c) The retail sale of services where one (1) service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(d) A transaction that includes taxable products and nontaxable products if the purchase price or sales price of the taxable products is de minimis. For purposes of this section, "de minimis" means the seller's purchase price or the sales price of the taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers shall not use a combination of the purchase price and the sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(e) The retail sale of exempt tangible personal property and taxable tangible personal property where:

1. The transaction includes:

a. Food and food ingredients as defined in KRS 139.485;

b. Drugs as defined in KRS 139.472;

c. Durable medical equipment as defined in KRS 139.472;

d. Mobility enhancing equipment as defined in KRS 139.472;

e. Medical supplies; or

f. Over-the-counter drugs. For purposes of this section, "over-the-counter drugs" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. sec. 201.66. The over-the-counter drug label shall include a "drug facts" panel, or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation; and

2. The seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%)

or less of the total purchase price or sales price of the bundled tangible personal property. Sellers shall not use a combination of the purchase price and the sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction.

Section 7. KRS 139.270 is amended to read as follows:

(1) The resale certificate or certificate of exemption relieves the retailer or seller from the burden of proof only if taken in good faith from a person who, at the time of purchasing the tangible personal property:

(a) Indicates an intention to sell it in the regular course of business by executing the resale certificate; or

(b) Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.

(2) This relief from liability ***provided to the retailer or the seller in subsection (1) of this section*** does not apply to a retailer or seller who***:***

(a) Fraudulently fails to collect the tax***;***[~~ or~~]

(b) Solicits purchasers to participate in the unlawful claiming of an exemption***; or***

(c) Accepts an exemption certificate when the purchaser claims an entity-based exemption when:

1. The product sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the retailer or seller; and

2. The state in which that location resides provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in that state.

For purposes of this paragraph, "entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption available to all individuals shall not be considered an entity-based exemption.

(3)[~~(2)~~] ***(a)*** "Good faith" shall be demonstrated by the retailer or seller if the retailer or seller:

1.[~~(a)~~] Accepts***, within ninety (90) days subsequent to the date of sale,*** a properly completed resale certificate or certificate of exemption; and

2.[~~(b)~~] Maintains a file of the certificate ***or data elements*** in accordance with KRS 139.720.

(b) If the retailer or seller has not obtained an exemption certificate or resale certificate or all relevant data elements within ninety (90) days subsequent to the date of sale, in keeping with the good faith standard, the seller or retailer may offer additional documentation to the department that the transaction is not subject to tax after the ninety (90) day period which the department may consider.

(4)[~~(3)~~] If the department later finds that the retailer or seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose, the department shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 8. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing

unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Department of Revenue;

(b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential ***telecommunications service. For purposes of this section, "residential telecommunications service" means a telecommunications service as defined in Section 3 of this Act or an ancillary service as defined in Section 3 of this Act provided to:***

(a) An individual for personal use at a residential address, including an individual dwelling unit such as an apartment; or

(b) An individual residing in an institution such as a school or nursing home if the service is paid for by an individual resident rather than the institution[~~telephone bill~~];

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.
2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
    a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(17) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

(18) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(19) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(20) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or

the consumer, not including any manufacturer's excise or import duty;

(21) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:

(a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or

(b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:

1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or

2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;

(22) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);

(23) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243; and

(24) Gross receipts from the first fifty thousand dollars ($50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board.

Section 9. KRS 139.472 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of:

(a) A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;

(b) ***The following items if purchased for home use:***

1. Medical oxygen***;***[~~, including~~]

2. High pressure cylinders, cryogenic tanks, or oxygen concentrators, ***or similar medical oxygen delivery equipment including repair and replacement parts for the equipment; or***

3. Tubes, masks, and similar items required for the delivery of oxygen to the patient[~~ when purchased by an individual for private use~~];

(c) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;

(d) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;

(e) Prosthetic devices purchased by any health care provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;

(f) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser;

(g) Mobility enhancing equipment for which a prescription is issued; and

(h) Hospital beds purchased for private, noncommercial use.

(2) Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable.

(3) As used in this section:

(a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:

1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or

2. Intended to affect the structure or any function of the human body.

(b) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug.

(c) 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

a\. Artificially replace a missing portion of the body;

b\. Prevent or correct a physical deformity or malfunction; or

c\. Support a weak or deformed portion of the body.

2. "Prosthetic device" shall not include any of the following:

a\. Corrective eyeglasses;

b. Contact lenses; or

c. Dental prosthesis.

(d) "Mobility enhancing equipment" means equipment including repair and replacements part for same, which:

1. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;

2. Is not generally used by persons with normal mobility; and

3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility enhancing equipment" shall not include durable medical equipment.

(e) "Durable medical equipment" means equipment including repair and replacement parts for same, which:

1. Can withstand repeated use;

2. Is primarily and customarily used to serve a medical purpose;

3. Generally is not useful to a person in the absence of illness or injury; and

4. Is not worn in or on the body.

"Durable medical equipment" shall not include mobility enhancing equipment.

Section 10. KRS 139.485 is amended to read as follows:

(1) Except as otherwise provided, the terms "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of food and food ingredients for human consumption.

(2) The term "food" and food ingredients as used in subsection (1) of this section means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not include:

(a) Alcoholic beverages;

(b) Tobacco;

(c) Candy;

(d) Dietary supplements;

(e) Soft drinks; and

(f) Prepared food.

(3) For purposes of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume;

(b) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;

(c) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include:

1. Any preparation containing flour; or

2. Any item requiring refrigeration;

(d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

1. Contains one (1) or more of the following dietary ingredients:

a. A vitamin;

b. A mineral;

c. An herb or other botanical;

d. An amino acid;

e. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;

2. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

3. Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36;

(e) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume;

(f) "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment;

(g) "Prepared food" means:

1. Food sold in a heated state or heated by the retailer;

2. Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food-borne illnesses; or

3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws;

(h) Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold without eating utensils provided by the seller:

1. Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or

2. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(4) Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines, ***or*** nonmechanical self-service vending systems[~~, or by street vendors~~] shall be subject to the tax imposed by this chapter.

Section 11. KRS 139.781 is amended to read as follows:

As used in KRS 139.780 to 139.795:

(1) "***SSUTA*** agreement" means the streamlined sales and use tax agreement;

(2) "Certified automated system" means software certified jointly by the states that are signatories to the ***SSUTA*** agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;

(3) "Certified service provider" means an agent certified jointly by the states that are signatories to the ***SSUTA*** agreement to perform all of the seller's sales tax functions;

(4) ***"Governing board" means a group of representatives from each member state that has the authority and responsibility for the administration and operation of the SSUTA agreement;.***

(5) "Member state" means a state that is found to be in compliance with the SSUTA agreement and that has made the necessary changes to statutes, rules, regulations, or other authorities necessary to bring the state into compliance and those changes are currently in effect;

(6) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit the tax on its own purchases;

(7) "Model 2 seller" means a seller that has selected a certified service provider to perform a part of its sales and use tax functions, but retains responsibility for remitting the tax;

(8) "Model 3 seller" means a seller that:

(a) Has sales in at least five (5) member states;

(b) Has total annual sales of at least five hundred million dollars ($500,000,000);

(c) Has a proprietary system that calculates the amount of tax due each jurisdictions; and

(d) Has entered into a performance agreement with the member states that establishes a tax performance standard for the seller.

For purposes of this subsection, a seller shall include an affiliated group of sellers using the same proprietary system;

(9) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity;

(10) "Product-based exemption" means an exemption based on the description of the product, and not based on who purchases the product or how the purchaser intends to use the product;

(11)[~~(5)~~] "Sales tax" means the tax levied under KRS 139.200;

(12)[~~(6)~~] "Seller" means any person making sales, leases, or rentals of personal property or services;

(13)[~~(7)~~] "State" means any state of the United States***,***[~~ and~~] the District of Columbia***, and the Commonwealth of Puerto Rico***;[~~ and~~]

(14) "Use-based exemption" means an exemption based on a specific use of the product by the purchaser; and

(15)[~~(8)~~] "Use tax" means the tax levied under KRS 139.310.

Section 12. KRS 139.795 is amended to read as follows:

(1) ***(a)*** A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. [~~As the seller's agent,~~]

(b) The certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller***,*** except ***when the liability for not collecting the sales or use taxes results from the certified service provider's reliance on software certified by the state***[~~as set out in this section~~]. ***Relief from liability shall not be granted if the certified service provider has incorrectly classified an item or transaction into a product-based exemption certified by the state, except when the item or transaction is classified based upon the individual listing of items or transactions within a product definition approved by the governing board or the member state.***

(c) A person that is responsible for the certified automated system is responsible for the functioning of system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system.

(2) (a) A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud***;***[~~.~~]

(b) In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider***; and***[~~.~~]

(c) A seller is subject to audit for transactions not processed by the certified service provider.

(3) The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(4) A model 2 seller shall be relieved of liability for not collecting sales and use taxes if the liability resulted from the model 2 seller's reliance on software previously certified by the state. Relief from liability shall not be granted if the certified service provider has incorrectly classified an item or transaction into a product-based exemption certified by the state, except when the item or transaction is classified based upon the individual listing of items or transactions with a product definition approved by the governing board or the member state.

(5) (a) The department shall notify the certified service provider or model 2 seller if an item or transaction has been incorrectly classified as to its taxability;

(b) The certified service provider of a model 2 seller shall have ten (10) days to revise the classification after the receipt of notice; and

(c) Upon expiration of the ten (10) days, the certified service provider or the model 2 seller shall be liable for the failure to collect the amount of sales or use taxes due and owing.

[~~(2) A person that provides a certified automated system is responsible for the functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.~~]

(6)[~~(3)~~] A ***model 3*** seller that[~~ has a proprietary system for determining the amount of tax due on transactions and~~] has signed ***a performance***[~~an~~] agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Section 13. KRS 136.602 is amended to read as follows:

As used in KRS 136.600 to 136.660:

(1) "Cable service" means the provision of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, and other similar services;

(2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to:

1. Local and long-distance telephone services;
2. Telegraph and teletypewriter services;
3. Prepaid calling services, and postpaid calling services;

4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;

5. Channel services involving a path of communications between two (2) or more points;

6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;

7. Caller ID services, ***ring tones,*** voice mail and other electronic messaging services;

8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and

9. Voice over Internet Protocol (VOIP);

(b) "Communications services" do not include information services, cable service, or satellite broadcast and wireless cable service;

(3) "Department" means the Department of Revenue;

(4) "End user" means the person who utilized the multichannel video programming service. In the case of an entity, "end user" means the individual who used the service on behalf of the entity;

(5) "Engaged in business" means:

(a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of selling, delivering, taking orders, or performing any activities that help establish or maintain a marketplace for the provider;

(b) Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, agent or representative, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;

(c) Having real or tangible personal property in this state;

(d) Providing communications service by or through a customer's facilities located in this state;

(e) Soliciting orders from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or payment of the order utilizes the services of any financial institution, communications system, radio or television station, cable service, direct broadcast satellite or wireless cable service, print media, or other facility or service located in this state; or

(f) Soliciting orders from residents of this state on a continuous regular, systematic basis if the provider benefits from an agent or representative operating in this state under the authority of the provider to repair or service tangible personal property sold by the retailer;

(6) "Gross revenues" means all amounts received in money, credits, property, or other money's worth in any form, by a provider for furnishing multichannel video programming service or communications service in this state excluding amounts received from:

(a) Charges for Internet access as ***defined***[~~provided~~] in[~~ the federal Internet Tax Nondiscrimination Act,~~] 47 U.S.C. sec. 151; and

(b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision upon the purchase, sale, use, or other consumption of communications services or multichannel video programming services that is permitted or required to be added to the sales price of the communications service or multichannel video programming service. This exclusion does not include any amount that the provider has retained as a reimbursement for collecting and remitting the tax to the appropriate taxing jurisdiction in a timely manner;

(7) "In this state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;

(8) "Multichannel video programming service" means cable service and satellite broadcast and wireless cable service;

(9) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company, nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

(10) "Place of primary use" means the street address where the end user's use of the multichannel video programming service primarily occurs;

(11) "Political subdivision" means a city, county, urban-county government, consolidated local government, or charter county government;

(12) "Provider" means any person receiving gross revenues for the provision of multichannel video programming service or communications service in this state;

(13) "Purchaser" means the person paying for multichannel video programming service;

(14) "Resale" means the purchase of a multichannel video programming service by a provider required to collect the tax levied

by KRS 136.604 for sale, or incorporation into a multichannel video programming service for sale, including but not limited to:

(a) Charges paid by multichannel video programming service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider; and

(b) Charges for use of facilities for providing or receiving multichannel video programming services;

(15) "Retail purchase" means any purchase of a multichannel video programming service for any purpose other than resale;

(16) *"Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication;*

(17) "Sale" means the furnishing of a multichannel video programming service for consideration;

(18)[~~(17)~~] (a) "Sales price" means the total amount billed by or on behalf of a provider for the sale of multichannel video programming services in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:

1. Any charge attributable to the connection, movement, change, or termination of a multichannel video programming service; or

2. Any charge for detail billing;

(b) "Sales price" does not include any of the following:

1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;

2. Charges for the sale or rental of tangible personal property;

3. Charges for billing and collection services provided to another multichannel video programming service provider;

4. Bad check charges;

5. Late payment charges;

6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, upon the purchase, sale, use, or consumption of any multichannel video programming service, that is permitted or required to be added to the sales price of the multichannel video programming service; or

7. Internet access as *defined*[~~provided~~] in[~~ the federal Internet Tax Nondiscrimination Act,~~] 47 U.S.C. sec. 151;

(19)[~~(18)~~] "Satellite broadcast and wireless cable service" means point-to-point or point-to-multipoint distribution services that include, but are not limited to, direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the purchaser. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, two (2) way service, and other similar services;

(20)[~~(19)~~] "School district" means a school district as defined in KRS 160.010 and 160.020; and

(21)[~~(20)~~] "Special district" means a special district as defined in KRS 65.005(1)(a) that currently levies on any provider or its customers the public service corporation property tax under KRS 136.120.

Section 14. KRS 136.616 is amended to read as follows:

(1) A tax is hereby imposed on the gross revenues received by all providers.

(2) The tax rate shall be:

(a) Two and four-tenths percent (2.4%) of the gross revenues received for the provision of multichannel video programming service provided to a person whose place of primary use is in this state, billed on or after January 1, 2006; and

(b) One and three-tenths percent (1.3%) of the gross revenues received for the provision of communications services, as sourced under the provisions of *Section 15 of this Act*[~~KRS 139.105~~], billed on or after January 1, 2006.

(3) The provider shall not collect the tax directly from the purchaser or separately state the tax on the bill to the purchaser.

(4) (a) The tax imposed by this section shall apply to all providers except a municipal utility. "Municipal utility" as used in this section means a utility owned, operated, and controlled directly or indirectly by a city of the first, second, third, fourth, fifth or sixth class.

(b) To the extent that the provisions of KRS Chapter 279 are inconsistent with KRS 136.600 to 136.660, KRS 136.600 to 136.660 shall control.

SECTION 15. A NEW SECTION OF KRS 136.600 TO 136.660 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of KRS 136.600 to 136.660 the retailer shall source communications services as follows:

(a) A sale of mobile telecommunications services, other than air-to-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's or other purchaser's place of primary use;

(b) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from its service provider, where the system used to transport the signals is not that of the retailer;

(c) A sale of prepaid calling service or a sale of a prepaid wireless calling service shall be sourced as follows:

1. Over the counter. The sale is sourced to the business location of the seller;

2. Delivery to a specified address. The sale is sourced to the specified address when a purchaser or purchaser's donee receives the service at a location specified by the purchaser; or

3. Delivery address unknown. When the retailer does not know the address where the service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:

a. The address of the purchaser available from the business records of the retailer;

b. The billing address of the purchaser;

c. The address from which the service was provided; or

d. In the case of a sale of prepaid wireless calling service, the location associated with the mobile telephone number.

(d) A sale of a private communications service shall be sourced as follows:

1. Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.

2. Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.

3. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

4. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(e) A sale of other communications services :

1. Sold on a call-by-call basis shall be sourced based on the taxing jurisdiction where the call either originates or terminates and in which the service address is also located; or

2. Sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.

(2) For purposes of this section:

(a) "Air-to-ground radiotelephone service" has the same meaning as in Section 3 of this Act;

(b) "Call-by-call basis" means any method of charging for communications services where the price is measured by individual calls;

(c) "Communications channel" has the same meaning as in Section 3 of this Act;

(d) "Customer" has the same meaning as in Section 3 of this Act;

(e) "Customer channel termination point" has the same meaning as in Section 3 of this Act;

(f) "Home service provider" has the same meaning as in Section 3 of this Act;

(g) "Post-paid calling service" means a communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the communications service. A post-paid calling service includes a communications service, except a prepaid wireless calling service, that would be a prepaid service except that it is not exclusively a communications service.

(h) "Prepaid calling service" means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(i) "Prepaid wireless calling service" means a communications service that:

1. Provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services;

2. Must be paid for in advance; and

3. Is sold in predetermined units of dollars of which the number declines with use in a known amount.

(j) "Private communications service" means a communications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels; and

(k) "Service address" has the same meaning as in Section 3 of this Act.

Section 16. KRS 136.620 is amended to read as follows:

(1) The taxes imposed by KRS 136.604 and 136.616 are due and payable monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

(2) On or before the twentieth day of each month, every provider shall file a return for the preceding month with the department in the form prescribed by the department, together with payment of any tax due. The department may allow a provider subject to the taxes imposed under KRS 136.604 and 136.616 to file a single return reporting tax liabilities under both taxes for each reporting period.

(3) The return shall show the:

(a) Gross revenues received subject to the tax imposed under KRS 136.616;

(b) Amount billed by the provider for multichannel video programming service subject to the tax imposed under KRS 136.604;

(c) Amount of the tax due under KRS 136.604 and 136.616; and

(d) Any other information as the department deems necessary for the proper administration of KRS 136.600 to 136.660.

(4) In the case where the purchaser is liable for the payment of the tax under KRS 136.606(2), the purchaser shall file the return showing the total amount paid for multichannel video programming service that is subject to tax during the reporting period.

(5) The return shall be signed by the person required to file the return or a duly authorized agent.

(6) The person required to file the return shall deliver the return, together with a remittance of the amount of tax due, to the department.

(7) For the purpose of facilitating the administration, payment, or collection of the taxes levied under KRS 136.600 to 136.660, the department may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section.

(8) For purposes of calculating the excise tax imposed under KRS 136.604, if tangible personal property normally subject to sales and use tax under KRS Chapter 139 is sold with multichannel video programming service as a single package for one (1) price, and the tangible personal property is necessary for the provision of the multichannel video programming service, the tax required to be collected by the provider shall be the tax imposed by KRS 136.604.

(9) For purposes of calculating the excise tax imposed under KRS 136.604, if communications services subject to sales and use tax under KRS Chapter 139 is sold with multichannel video programming service as a single package for one (1) price, ***the portion of the sales price attributable to the communications services shall be subject to the excise tax unless the provider can identify, by reasonable and verifiable standards, the communications services from its books and records that are kept in the regular course of business for other purposes, including but not limited to nontax purposes***[~~the tax required to be collected by the provider shall be the sales and use tax under KRS Chapter 139~~].

(10) For purposes of calculating the gross revenues tax imposed under KRS 136.616, if communications service is sold with multichannel video programming service as a single package for one (1) price, the gross revenues shall be taxed at the rate of two and four-tenths percent (2.4%).

(11) For purposes of calculating the gross revenues tax imposed under KRS 136.616, if tangible personal property is sold with:

(a) Multichannel video programming service for one (1) price, the gross revenues shall be taxed at the rate of two and four-tenths percent (2.4%); and

(b) Communications service for one (1) price, the gross revenues shall be taxed at the rate of one and three-tenths percent (1.3%).

Section 17. KRS 160.6131 is amended to read as follows:

As used in KRS 160.613 to 160.617:

(1) "Department" means the Department of Revenue.

(2) "Communications service" ***means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.***

(a) "Communications service" includes but is not limited to:

1. Local and long-distance telephone services;

2. Telegraph and teletypewriter services;

3. Postpaid calling services;

4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;

5. Channel services involving a path of communications between two (2) or more points;

6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;

7. Caller ID services, ring tones, voice mail and other electronic messaging services;

8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and

9. Voice over Internet Protocol (VOIP).

(b) "Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:

1. Information services;

2. Internet access as defined in 47 U.S.C. sec. 151;

3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;

4. The sale of directory and other advertising and listing services;

5. Billing and collection services provided to another communications service provider;

6. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996;

7. The sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale, including:

a. Carrier access charges, excluding user access fees;

b. Right of access charges;

c. Interconnection charges paid by the provider of mobile telecommunications services or other communications providers;

d. Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is provided on an unbundled basis in accordance with 47 U.S.C. sec. 251(c)(3); and

e. Charges for use of facilities for providing or receiving communications service; and

8. The sale of communications services provided to the public by means of a pay phone.[~~shall have the same meaning as provided in KRS 139.195 but does not include:~~]

9.[~~(a)~~] Prepaid calling services;

10.[~~(b)~~] Interstate telephone service, if the interstate charge is separately itemized for each call; and

11.[~~(c)~~] If the interstate calls are not itemized, the portion of telephone charges identified and set out on the customer's bill as interstate as supported by the provider's books and records.

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased.

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services.

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas.

(6) "Cable service" has the same meaning as provided in KRS 136.602.

(7) "Satellite broadcast and wireless cable service" has the same meaning as provided in KRS 136.602.

(8) "Ring tones" has the same meaning as provided in Section 13 of this Act.

Section 18. KRS 160.6151 is amended to read as follows:

For purposes of administering the taxes authorized by KRS 160.613 and 160.614 relating to the sourcing of communications services and the rights of customers, the provisions of ***Sections 13 and 15 of this Act***[~~KRS 139.105(2), 139.195,~~] and ***KRS*** 139.775 shall apply.

Section 19. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property sold by any person for delivery in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270;

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.270;

(3) Purchased according to regulations of the Department of Revenue governing a direct pay authorization; or

(4) Purchased under a form issued pursuant to KRS[~~ 139.776 or~~] 139.777.

Section 20. KRS 139.471 is amended to read as follows:

Excluded from the additional taxes imposed by KRS 139.200 ***and***[~~,~~] 139.310[~~, and 139.320~~] are gross receipts:

(1) Derived from sales of and the storage, use, or other consumption of tangible personal property purchased for use in the performance of a lump-sum, fixed fee contract executed on or before March 9, 1990;

(2) Derived from sales made under fixed price sales contracts executed on or before March 9, 1990, provided the contract specifies a five percent (5%) sales tax rate; and

(3) Derived from a lease or rental agreement entered into on or before March 9, 1990.

Section 21. KRS 139.783 is amended to read as follows:

It is the intent and purpose of the General Assembly in enacting KRS 139.780 to 139.795 to encourage and increase voluntary compliance with Kentucky's sales and use tax law by entering into ***the SSUTA***[~~an~~] agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

Section 22. KRS 139.785 is amended to read as follows:

(1) The department is authorized and directed to enter into the ***SSUTA*** agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the ***SSUTA*** agreement, the department is authorized to act jointly with other states that are members of the ***SSUTA*** agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(2) The department is further authorized to take other actions reasonably required to implement the provisions set forth in KRS 139.780 to 139.795. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative agreement. Notwithstanding the provisions of KRS Chapter 13A, the department may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.

(3) The commissioner of the Department of Revenue or the commissioner's designee, the state budget director or the director's designee, and two (2) legislators are authorized to represent this state before the other states that are signatories to the ***SSUTA*** agreement. One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

Section 23. KRS 139.787 is amended to read as follows:

No provision of the ***SSUTA*** agreement authorized by KRS 139.780 to 139.795 in whole or in part invalidates or amends any provision of the law of this state. Adoption of the ***SSUTA*** agreement by the state does not amend or modify any law of this state. Implementation of any condition of the ***SSUTA*** agreement in this state, whether adopted before, during, or after membership of this state in the ***SSUTA*** agreement, shall be by action of this state.

Section 24. KRS 139.789 is amended to read as follows:

The department shall not enter into the ***SSUTA*** agreement unless the ***SSUTA*** agreement requires each state to abide by the following requirements:

(1) The ***SSUTA*** agreement shall set restrictions to achieve more uniform state rates through the following:
    (a) Limiting the number of state rates;
    (b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and
    (c) Limiting the application of thresholds on the application of state tax.

(2) The ***SSUTA*** agreement shall establish uniform standards for the following:
    (a) The sourcing of transactions to taxing jurisdictions;
    (b) The administration of exempt sales;
    (c) The allowances a seller can take for bad debts; and
    (d) Sales and use tax returns and remittances.

(3) The ***SSUTA*** agreement shall require states to develop and adopt uniform definitions of sales and use tax terms. The

definitions shall enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

(4) The ***SSUTA*** agreement shall provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(5) The ***SSUTA*** agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory state will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(6) The ***SSUTA*** agreement shall provide for a reduction of the burdens of complying with local sales and use taxes through the following:

(a) Restricting variances between the state and local tax bases;

(b) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(7) The ***SSUTA*** agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

(8) The ***SSUTA*** agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance under the laws of the member state, with all provisions of the ***SSUTA*** agreement while a member.

(9) The ***SSUTA*** agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(10) The ***SSUTA*** agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the ***SSUTA*** agreement.

Section 25. KRS 139.791 is amended to read as follows:

The ***SSUTA*** agreement authorized by KRS 139.780 to 139.795 is an accord among individual, cooperating sovereigns in furtherance of their governmental functions. The ***SSUTA*** agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

Section 26. KRS 139.793 is amended to read as follows:

(1) The ***SSUTA*** agreement authorized by KRS 139.780 to 139.795 binds and inures only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the ***SSUTA*** agreement. Any benefit to a person other than a state is established by the law of the state and the other member states and not by the terms of ***the SSUTA***[~~this~~] agreement.

(2) Consistent with subsection (1) of this section, no person shall have any cause of action or defense under the ***SSUTA*** agreement or by virtue of this state's approval of the ***SSUTA*** agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the ***SSUTA*** agreement.

(3) No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the ***SSUTA*** agreement.

Section 27. KRS 139.794 is amended to read as follows:

(1) According to the provisions of the ***SSUTA*** agreement, a seller who registers under the terms of the ***SSUTA*** agreement to pay or to collect and remit applicable sales and use tax on sales made in Kentucky shall be exempt from assessment for uncollected or unpaid sales or use tax together with penalty and interest for sales made during the period the seller was not registered in Kentucky if:

(a) The seller was not registered in Kentucky in the twelve (12) month period preceding the effective date of Kentucky's participation in the ***SSUTA*** agreement; and

(b) The seller registers in Kentucky within twelve (12) months of the effective date of Kentucky's participation in the ***SSUTA*** agreement.

(2) The exemption is not available to a seller with respect to any matter or matters for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved, including any related administrative and judicial processes.

(3) The exemption is not available for sales or use taxes already paid or remitted to the state or to taxes collected by the seller.

(4) The exemption is fully effective, absent the seller's fraud or intentional misrepresentation of a material fact, if the seller remains registered and continues payment or collection and remittance of applicable sales or use taxes for a period of at

least thirty-six (36) months. During this thirty-six (36) month period, the statute of limitations shall be suspended for the seller remaining in compliance with registration and payment requirements. Failure to meet these terms will result in a revocation of the exemption.

(5) This exemption shall apply to sales or use taxes due from a seller in its capacity as a seller and shall not apply to sales and use taxes due from a seller in its capacity as a buyer.

Section 28. KRS 139.990 is amended to read as follows:

(1) Any person who executes:

(a) A resale certificate for property in accordance with KRS 139.270 knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;

(b) An exemption certificate for property in accordance with KRS 139.270, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner;

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030; or

(d) ***A***[~~An MPU exemption form or~~] Direct Mail Form issued not in accordance with the provisions ***of*** KRS[~~ 139.776 or~~] 139.777;

shall be guilty of a Class B misdemeanor.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.

(3) Any person who violates any of the provisions of KRS 139.220, 139.380, or 139.700 shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the regulations promulgated by the department shall be guilty of a Class B misdemeanor.

(5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 29. The following KRS sections are repealed:

139.320 Use tax on machinery brought into state for construction project.

139.776 Multiple points of use exemption form.

Section 30. This Act takes effect July 1, 2007.

The Committee Substitute to **HB 360** is as follows:

HB 360, AN ACT relating to the streamlined sales and use tax agreement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(a) The retailer's cost of the property sold;

(b) The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;

(c) Charges by the retailer for any services necessary to complete the sale;

(d) Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing; and

(e) Any amount for which credit is given to the purchaser by the retailer, other than credit for property traded when the property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale.

(2) ***"Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:***

(a) The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;

(b) The retailer has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the

sale of the item to the purchaser; and

(d) One (1) of the following criteria is met:

1. The purchaser presents a coupon, certificate or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

2. The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or

3. The purchaser identifies himself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.

(3) "Gross receipts" and "sales price" shall not include:

(a) Discounts, including cash, term, or coupons that are not reimbursed by a third party, and that are allowed by a retailer and taken by a purchaser on a sale;

(b) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(c) Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(d) The amount charged for labor or services rendered in installing or applying the property or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(4) As used in this section, "third party" means a person other than the purchaser.

Section 2. KRS 139.105 is amended to read as follows:

(1) For purposes of the retailer's obligation to pay or collect and remit the taxes imposed by KRS 139.200 and 139.310, the retailer shall source the retail sale, excluding sales of communications services as follows:

(a) Over the counter. When the purchaser receives tangible personal property or service at a business location of the retailer, the sale is sourced to that business location.

(b) Delivery to a specified address. When a purchaser or purchaser's donee receives tangible personal property or service at a location specified by the purchaser, the sale is sourced to that location.

(c) Delivery address unknown. When the retailer of a product does not know the address where the tangible personal property or service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:

1. The address of the purchaser;

2. The billing address of the purchaser; or

3. The address from which the tangible personal property was shipped; from which the computer software was delivered electronically or was first available for transmission by the retailer; or from which the service was provided.

(2) The retailer shall source communications services as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid ***wireless*** calling service, shall be sourced to the customer's or other purchaser's place of primary use.

(b) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from its service provider, where the system used to transport the signals is not that of the retailer.

(c) A sale of prepaid calling service ***or a sale of a prepaid wireless calling service*** shall be sourced according to the provisions of subsection (1) of this section. If the sale is of a prepaid ***wireless*** calling service[~~ that is also a mobile telecommunications service~~] and the retailer does not know the address where the service is received, the sale shall be sourced to the first of the following that is known by the retailer:

1. The address of the customer available from the business records of the retailer;

2. The billing address of the customer;

3. The address from which the service was provided; or

4. The location associated with the mobile telephone number.

(d) A sale of a private communications service shall be sourced as follows:

1. Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.

2. Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.

3. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

4. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are ***not*** separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(e) ***A sale of an ancillary service is sourced to the customer's place of primary use.***

(f) ***A sale of other communications services:***

1. ***Sold on a call-by-call basis shall be sourced based on the taxing jurisdiction where the call either originates or terminates and in which the service address is also located; or***

2. [~~A sale of other communications services~~]Sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.

(3) Nothing included in subsection (1) or (2) of this section shall affect the obligation of a purchaser to remit use tax pursuant to KRS 139.310.

Section 3. KRS 139.195 is amended to read as follows:

As used in KRS 139.105, 139.200, ***Section 6 of this Act,*** and 139.775:

(1) ***"Ancillary services" means services that are associated with or incidental to the provision of telecommunications services including, caller ID services, detailed communications billing, directory assistance, vertical services, conference bridging service, and voice mail services.***

(2) "***Air-to-ground***[~~Air-ground~~] radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(3)[~~(2)~~] "Call-by-call basis" means any method of charging for ***telecommunications***[~~communications~~] services where the price is measured by individual calls.

(4)[~~(3)~~] "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(5)[(4)] ***(a)*** "Communications service" means ***telecommunications services and ancillary services***[~~the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.~~

~~(a) "Communications service" includes but is not limited to:~~

~~1. Local and long-distance telephone services;~~

~~2. Telegraph and teletypewriter services;~~

~~3. Prepaid calling services and postpaid calling services;~~

~~4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;~~

~~5. Channel services involving a path of communications between two (2) or more points;~~

~~6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;~~

~~7. Caller ID services, voice mail and other electronic messaging services;~~

~~8. Mobile telecommunications service as provided in 4 U.S.C. sec. 124(7); and~~

~~9. Voice over Internet Protocol (VOIP)~~].

(b) "Communications service" does not include[~~ any of the following if the charges are separately itemized on the bill provided to the purchaser:~~

~~1. Information services;~~

~~2. Internet access as provided in the federal Internet Tax Nondiscrimination Act, 47 U.S.C. sec. 151;~~

~~3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;~~

~~4. The sale of directory and other advertising and listing services;~~

~~5. Billing and collection services provided to another communications service provider;~~

~~6. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996;~~

~~7.~~]the sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale ***if:***

1. The seller separately itemizes the charges for these services on the bill provided to the purchaser; or

2. The seller can identify, by reasonable and verifiable standards, the charges for these services from its books and records kept in the regular course of business for other purposes including nontax purposes. These services include[~~, including~~]:

  a. Carrier access charges, excluding user access fees;

  b. Right of access charges;

  c. Interconnection charges paid by the provider of mobile telecommunications services or other communications providers;

  d. Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is provided on an unbundled basis in accordance with 47 U.S.C. sec. 251(c)(3); and

  e. Charges for use of facilities for providing or receiving communications service[~~; and~~

~~8. The sale of communications services provided to the public by means of a pay phone~~].

(6)[~~(5)~~] ***"Conference bridging services" means an ancillary service that links two (2) or more participants of an audio or video conference call and may include the provision of a telephone number. "Conference bridging services" does not include the telecommunications services used to reach the conference bridge.***

(7) "Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the communications service, but only as it applies to the sourcing of the sale of communications services as provided in KRS 139.105. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area.

(8)[~~(6)~~] "Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications.

(9) "Detailed telecommunications billing service" means an ancillary service of separately stated information pertaining to individual calls on a customer's billing statement.

(10) "Directory assistance" means an ancillary service of providing telephone number information or address information.

(11)[~~(7)~~] "End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity.

(12) "Fixed wireless service" means a telecommunications service that provides radio communications between fixed points.

(13)[~~(8)~~] "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).

(14) "International" means a service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a United States territory or possession.

(15) "Interstate" means a service that originates in one state of the United States or a United States territory or possession, and terminates in a different state of the United States or United States territory or possession.

(16) "Intrastate" means a service that originates in one state of the United States or a United States territory or possession, and terminates in the same state of the United States or a United States territory or possession.

(17)[~~(9)~~] "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7).

(18) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and termination points or the origination or termination points of the transmission, conveyance, or routing are not fixed, including, by the way of example only, telecommunications services that are provided by a commercial mobile radio service provider.

(19) "Paging service" means a telecommunications service that provides a transmission of coded radio signals for the purpose of activating specific pagers. Such transmissions may include messages or sounds.

(20) "Pay telephone service" means a telecommunications service provided through any pay telephone.

(21)[~~(10)~~] "Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider.

(22)[~~(11)~~] "Post-paid calling service" means a ***telecommunications***[~~communications~~] service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the ***telecommunications***[~~communications~~] service. A post-paid calling service includes a ***telecommunications***[~~communications~~] service***, except a prepaid wireless calling service,*** that would be a prepaid service except that it is not exclusively a ***telecommunications***[~~communications~~] service.

(23)[~~(12)~~] "Prepaid calling service" means the right to access exclusively ***telecommunications***[~~communications~~] services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(24) "Prepaid wireless calling service" means a telecommunications service that:

(a) Provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services;

(b) Must be paid for in advance; and

(c) Is sold in predetermined units of dollars of which the number declines with use in a known amount.

(25)[~~(13)~~] "Private communications service" means a ***telecommunications***[~~communications~~] service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels.

(26) "Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(27)[~~(14)~~] (a) "Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(b) If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

(c) If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use.

(28) "Telecommunications nonrecurring charges" means an amount billed for the installation, connection, change, or initiation of telecommunications service received by the customer.

(29) (a) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(b) "Telecommunications service" includes but is not limited to:

1. The transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice over Internet protocol (VOIP) services or is classified by the Federal Communications Commission as enhanced or value-added;

2. Paging services;

3. Telegraph and teletypewriter services;

4. Local and long distance telephone services;

5. Fixed wireless service;

6. Mobile wireless service;

7. Private communications service;

8. Telecommunications nonrecurring charges;

9. Value-added nonvoice data service;

10 800 service; and

11. 900 service.

(c) "Telecommunications service" does not include:

1. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information;

2. Installation or maintenance of wiring or equipment on a customer's premises;

3. Tangible personal property;

4. Advertising, including but not limited to directory advertising;

5. Billing and collection services provided to third parties;

6. Internet access service as defined in 47 U.S.C. sec. 151;

7. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to cable services as defined in 47 U.S.C. sec. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

8. Ancillary services;

9. Digital products delivered electronically, including but not limited to software, music, video, rating materials or ring tones; or

10. Telephone answering services.

(29) "Value-added nonvoice data service" means a service that otherwise meets the definition of telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for the purpose other than transmission, conveyance, or routing.

(30) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(31) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(32) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

(33) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live serve. "900 service" does not include the charge for collections services provided to the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission.

Section 4. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

(1) Retail sales, regardless of the method of delivery, made within this Commonwealth; and

(2) The furnishing of the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions except those taxed under KRS 138.480;

(d) Prepaid calling service ***and prepaid wireless calling service***[~~, which means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines in a known amount with use~~];

(e) ***Intrastate, interstate and international*** communications service[~~ to a service address in this state, other than mobile telecommunications services~~] as defined in KRS 139.195, ***except the furnishing of pay telephone service as defined in KRS 139.195***[~~regardless of where those services are billed or paid, when the communications service:~~

~~1. Originates and terminates in this state;~~

~~2. Originates in this state; or~~

~~3. Terminates in this state~~];

(f) ***Ring tones***[~~Mobile telecommunications services~~] as defined in KRS 139.195, to a purchaser whose place of primary use is in this state; and

(g) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:

1. For natural gas that is classified as residential use as provided in KRS 139.470(8); or
2. To a seller or reseller of natural gas.

Section 5. KRS 139.210 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the tax shall be required to be collected by the retailer from the purchaser.~~[If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount.]~~ The tax shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(2) The department may relieve certain retailers from the provisions of subsection (1) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. If the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.

(3) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(4) The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

SECTION 6. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided by federal law, the following rules shall apply to a bundled transaction as defined in subsection (3) of this section, that includes any or all of a telecommunications service, ancillary service, Internet access, audio programming or video programming:

(a) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable product is subject to tax unless the provider can identify, by reasonable and verifiable standards, the portion of the products that are nontaxable from its books and records that are kept in the regular course of business for other purposes, including nontax purposes; or

(b) If the price is attributable to products that are subject to tax at different rates, the total price shall be treated as attributable to the products subject to tax at the highest rate unless the provider can identify, by reasonable and verifiable standards, the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including nontax purposes.

(2) The following rules shall apply to all bundled transactions except as provided in subsection (1) of this section:

(a) If the price is attributable to products where taxable and exempt tangible personal property have been bundled together and sold by the retailer as a bundled transaction, the entire charge is subject to tax; or

(b) If the price is attributable to products where taxable products and exempt services have been bundled together and sold by the retailer as a bundled transaction, the entire charge is subject to tax.

(3) (a) For purposes of this section, "bundled transaction" means the retail sale of two (2) or more products, except real property and services to real property, where:

1. The products are otherwise distinct and identifiable; and

2. The products are sold for one (1) nonitemized price.

(b) Distinct and identifiable products do not include:

1. Packaging such as containers, boxes, sacks, bags, bottles, wrapping, materials, labels, tags, or instruction guides that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples include grocery sacks, shoe boxes, dry cleaning garment bags and express delivery envelopes and boxes;

2. A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge; or

3. Items included in the definition of sales price pursuant to KRS 139.050.

(c) One (1) nonitemized price does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(4) A bundled transaction does not include:

(a) The retail sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction;

(b) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(c) The retail sale of services where one (1) service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(d) A transaction that includes taxable products and nontaxable products if the purchase price or sales price of the taxable products is de minimis. For purposes of this section, "de minimis" means the seller's purchase price or the sales price of the taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers shall not use a combination of the purchase price and the sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(e) The retail sale of exempt tangible personal property and taxable tangible personal property where:

1. The transaction includes:

a. Food and food ingredients as defined in KRS 139.485;

b. Drugs as defined in KRS 139.472;

c. Durable medical equipment as defined in KRS 139.472;

d. Mobility enhancing equipment as defined in KRS 139.472;

e. Medical supplies; or

f. Over-the-counter drugs. For purposes of this section, "over-the-counter drugs" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. sec. 201.66. The over-the-counter drug label shall include a "drug facts" panel, or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation; and

2. The seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property. Sellers shall not use a combination of the purchase price and the sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction.

Section 7. KRS 139.270 is amended to read as follows:

(1) The resale certificate or certificate of exemption relieves the retailer or seller from the burden of proof only if taken in good faith from a person who, at the time of purchasing the tangible personal property:

(a) Indicates an intention to sell it in the regular course of business by executing the resale certificate; or

(b) Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.

(2) This relief from liability ***provided to the retailer or the seller in subsection (1) of this section*** does not apply to a retailer or seller who***:***

(a) Fraudulently fails to collect the tax***;***[~~ or~~]

(b) Solicits purchasers to participate in the unlawful claiming of an exemption***; or***

(c) Accepts an exemption certificate when the purchaser claims an entity-based exemption when:

1. The product sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the retailer or seller; and

2. The state in which that location resides provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in that state.

For purposes of this paragraph, "entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption available to all individuals shall not be considered an entity-based exemption.

(3)[~~(2)~~] ***(a)*** "Good faith" shall be demonstrated by the retailer or seller if the retailer or seller:

1.[~~(a)~~] Accepts***, within ninety (90) days subsequent to the date of sale,*** a properly completed resale certificate or certificate of exemption; and

2.[~~(b)~~] Maintains a file of the certificate ***or data elements*** in accordance with KRS 139.720.

(b) If the retailer or seller has not obtained an exemption certificate or resale certificate or all relevant data elements within ninety (90) days subsequent to the date of sale, in keeping with the good faith standard, the seller or retailer may offer additional documentation to the department that the transaction is not subject to tax after the ninety (90) day period which the department may consider.

(4)[~~(3)~~] If the department later finds that the retailer or seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose, the department shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 8. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Department of Revenue;

(b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential ***telecommunications service. For purposes of this section, "residential telecommunications service" means a***

telecommunications service as defined in Section 3 of this Act or an ancillary service as defined in Section 3 of this Act provided to:

(a) An individual for personal use at a residential address, including an individual dwelling unit such as an apartment; or

(b) An individual residing in an institution such as a school or nursing home if the service is paid for by an individual resident rather than the institution[~~telephone bill~~];

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(17) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

(18) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(19) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(20) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(21) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:

(a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or

(b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:

1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or

2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;

(22) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);

(23) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243; and

(24) Gross receipts from the first fifty thousand dollars ($50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board.

Section 9. KRS 139.472 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of:

(a) A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;

(b) ***The following items if purchased for home use:***

1. Medical oxygen***;***~~[, including]~~

2. High pressure cylinders, cryogenic tanks, or oxygen concentrators, ***or similar medical oxygen delivery equipment including repair and replacement parts for the equipment; or***

3. Tubes, masks, and similar items required for the delivery of oxygen to the patient~~[when purchased by an individual for private use]~~;

(c) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;

(d) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;

(e) Prosthetic devices purchased by any health care provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;

(f) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser;

(g) Mobility enhancing equipment for which a prescription is issued; and

(h) Hospital beds purchased for private, noncommercial use.

(2) Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable.

(3) As used in this section:

(a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:

1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or

2. Intended to affect the structure or any function of the human body.

(b) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug.

(c) 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

a. Artificially replace a missing portion of the body;

b. Prevent or correct a physical deformity or malfunction; or

c. Support a weak or deformed portion of the body.

2. "Prosthetic device" shall not include any of the following:

a. Corrective eyeglasses;

b. Contact lenses; or

c. Dental prosthesis.

(d) "Mobility enhancing equipment" means equipment including repair and replacements part for same, which:

1. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;

2. Is not generally used by persons with normal mobility; and

3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility enhancing equipment" shall not include durable medical equipment.

(e) "Durable medical equipment" means equipment including repair and replacement parts for same, which:

1. Can withstand repeated use;

2. Is primarily and customarily used to serve a medical purpose;

3. Generally is not useful to a person in the absence of illness or injury; and

4. Is not worn in or on the body.

"Durable medical equipment" shall not include mobility enhancing equipment.

Section 10. KRS 139.485 is amended to read as follows:

(1) Except as otherwise provided, the terms "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of food and food ingredients for human consumption.

(2) The term "food" and food ingredients as used in subsection (1) of this section means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not include:

(a) Alcoholic beverages;

(b) Tobacco;

(c) Candy;

(d) Dietary supplements;

(e) Soft drinks; and

(f) Prepared food.

(3) For purposes of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume;

(b) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;

(c) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include:

1. Any preparation containing flour; or

2. Any item requiring refrigeration;

(d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

1. Contains one (1) or more of the following dietary ingredients:

a. A vitamin;

b. A mineral;

c. An herb or other botanical;

d. An amino acid;

e. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;

2. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

3. Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36;

(e) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume;

(f) "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment;

(g) "Prepared food" means:

1. Food sold in a heated state or heated by the retailer;

2. Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food-borne illnesses; or

3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws;

(h) Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold without eating utensils provided by the seller:

1. Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or

2. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(4) Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines, ***or*** nonmechanical self-service vending systems~~[, or by street vendors]~~ shall be subject to the tax imposed by this chapter.

Section 11. KRS 139.781 is amended to read as follows:

As used in KRS 139.780 to 139.795:

(1) "***SSUTA*** agreement" means the streamlined sales and use tax agreement;

(2) "Certified automated system" means software certified jointly by the states that are signatories to the ***SSUTA*** agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;

(3) "Certified service provider" means an agent certified jointly by the states that are signatories to the ***SSUTA*** agreement to perform all of the seller's sales tax functions;

(4) ***"Governing board" means a group of representatives from each member state that has the authority and responsibility for the administration and operation of the SSUTA agreement;.***

(5) "Member state" means a state that is found to be in compliance with the SSUTA agreement and that has made the necessary changes to statutes, rules, regulations, or other authorities necessary to bring the state into compliance and those changes are currently in effect;

(6) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit the tax on its own purchases;

(7) "Model 2 seller" means a seller that has selected a certified service provider to perform a part of its sales and use tax functions, but retains responsibility for remitting the tax;

(8) "Model 3 seller" means a seller that:

(a) Has sales in at least five (5) member states;

(b) Has total annual sales of at least five hundred million dollars ($500,000,000);

(c) Has a proprietary system that calculates the amount of tax due each jurisdictions; and

(d) Has entered into a performance agreement with the member states that establishes a tax performance standard for the seller.

For purposes of this subsection, a seller shall include an affiliated group of sellers using the same proprietary system;

(9) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity;

(10) "Product-based exemption" means an exemption based on the description of the product, and not based on who purchases the product or how the purchaser intends to use the product;

(11)[~~(5)~~] "Sales tax" means the tax levied under KRS 139.200;

(12)[~~(6)~~] "Seller" means any person making sales, leases, or rentals of personal property or services;

(13)[~~(7)~~] "State" means any state of the United States***,***[~~ and~~] the District of Columbia***, and the Commonwealth of Puerto Rico***;[~~ and~~]

(14) "Use-based exemption" means an exemption based on a specific use of the product by the purchaser; and

(15)[~~(8)~~] "Use tax" means the tax levied under KRS 139.310.

Section 12. KRS 139.795 is amended to read as follows:

(1) ***(a)*** A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. [~~As the seller's agent,~~]

(b) The certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller***,*** except ***when the liability for not collecting the sales or use taxes results from the certified service provider's reliance on software certified by the state***[~~as set out in this section~~]. ***Relief from liability shall not be granted if the certified service provider has incorrectly classified an item or transaction into a product-based exemption certified by the state, except when the item or transaction is classified based upon the individual listing of items or transactions within a product definition approved by the governing board or the member state.***

(c) A person that is responsible for the certified automated system is responsible for the functioning of system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system.

(2) (a) A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud***;***[~~.~~]

(b) In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider***; and***[~~.~~]

(c) A seller is subject to audit for transactions not processed by the certified service provider.

(3) The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(4) A model 2 seller shall be relieved of liability for not collecting sales and use taxes if the liability resulted from the model 2 seller's reliance on software previously certified by the state. Relief from liability shall not be granted if the certified service provider has incorrectly classified an item or transaction into a product-based exemption certified by the state, except when the item or transaction is classified based upon the individual listing of items or transactions with a product definition approved by the governing board or the member state.

(5) (a) The department shall notify the certified service provider or model 2 seller if an item or transaction has been incorrectly classified as to its taxability;

(b) The certified service provider of a model 2 seller shall have ten (10) days to revise the classification after the

receipt of notice; and

(c) Upon expiration of the ten (10) days, the certified service provider or the model 2 seller shall be liable for the failure to collect the amount of sales or use taxes due and owing.

[~~(2) A person that provides a certified automated system is responsible for the functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.~~]

(6)[~~(3)~~] A ***model 3*** seller that[~~ has a proprietary system for determining the amount of tax due on transactions and~~] has signed ***a performance***[~~an~~] agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Section 13. KRS 136.602 is amended to read as follows:

As used in KRS 136.600 to 136.660:

(1) "Cable service" means the provision of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, and other similar services;

(2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to:

1. Local and long-distance telephone services;
2. Telegraph and teletypewriter services;
3. Prepaid calling services, and postpaid calling services;
4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;
5. Channel services involving a path of communications between two (2) or more points;
6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;
7. Caller ID services, ***ring tones,*** voice mail and other electronic messaging services;
8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and
9. Voice over Internet Protocol (VOIP);

(b) "Communications services" do not include information services, cable service, or satellite broadcast and wireless cable service;

(3) "Department" means the Department of Revenue;

(4) "End user" means the person who utilized the multichannel video programming service. In the case of an entity, "end user" means the individual who used the service on behalf of the entity;

(5) "Engaged in business" means:

(a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of selling, delivering, taking orders, or performing any activities that help establish or maintain a marketplace for the provider;

(b) Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, agent or representative, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;

(c) Having real or tangible personal property in this state;

(d) Providing communications service by or through a customer's facilities located in this state;

(e) Soliciting orders from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or payment of the order utilizes the services of any financial institution, communications system, radio or television station, cable service, direct broadcast satellite or wireless cable service, print media, or other facility or service located in this state; or

(f) Soliciting orders from residents of this state on a continuous regular, systematic basis if the provider benefits from an agent or representative operating in this state under the authority of the provider to repair or service tangible personal property sold by the retailer;

(6) "Gross revenues" means all amounts received in money, credits, property, or other money's worth in any form, by a

provider for furnishing multichannel video programming service or communications service in this state excluding amounts received from:

(a) Charges for Internet access as ***defined***[~~provided~~] in[~~ the federal Internet Tax Nondiscrimination Act,~~] 47 U.S.C. sec. 151; and

(b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision upon the purchase, sale, use, or other consumption of communications services or multichannel video programming services that is permitted or required to be added to the sales price of the communications service or multichannel video programming service. This exclusion does not include any amount that the provider has retained as a reimbursement for collecting and remitting the tax to the appropriate taxing jurisdiction in a timely manner;

(7) "In this state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;

(8) "Multichannel video programming service" means cable service and satellite broadcast and wireless cable service;

(9) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company, nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

(10) "Place of primary use" means the street address where the end user's use of the multichannel video programming service primarily occurs;

(11) "Political subdivision" means a city, county, urban-county government, consolidated local government, or charter county government;

(12) "Provider" means any person receiving gross revenues for the provision of multichannel video programming service or communications service in this state;

(13) "Purchaser" means the person paying for multichannel video programming service;

(14) "Resale" means the purchase of a multichannel video programming service by a provider required to collect the tax levied by KRS 136.604 for sale, or incorporation into a multichannel video programming service for sale, including but not limited to:

(a) Charges paid by multichannel video programming service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider; and

(b) Charges for use of facilities for providing or receiving multichannel video programming services;

(15) "Retail purchase" means any purchase of a multichannel video programming service for any purpose other than resale;

(16) ***"Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication;***

(17) "Sale" means the furnishing of a multichannel video programming service for consideration;

(18)[~~(17)~~] (a) "Sales price" means the total amount billed by or on behalf of a provider for the sale of multichannel video programming services in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:

1. Any charge attributable to the connection, movement, change, or termination of a multichannel video programming service; or
2. Any charge for detail billing;

(b) "Sales price" does not include any of the following:

1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;
2. Charges for the sale or rental of tangible personal property;
3. Charges for billing and collection services provided to another multichannel video programming service provider;
4. Bad check charges;
5. Late payment charges;
6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, upon the purchase, sale, use, or consumption of any multichannel video programming service, that is permitted or required to be added to the sales price of the multichannel video programming service; or
7. Internet access as ***defined***[~~provided~~] in[~~ the federal Internet Tax Nondiscrimination Act,~~] 47 U.S.C. sec. 151;

(19)[~~(18)~~] "Satellite broadcast and wireless cable service" means point-to-point or point-to-multipoint distribution services that include, but are not limited to, direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the purchaser. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, two (2) way service, and other similar services;

(20)[~~(19)~~] "School district" means a school district as defined in KRS 160.010 and 160.020; and

(21)[~~(20)~~] "Special district" means a special district as defined in KRS 65.005(1)(a) that currently levies on any provider or its customers the public service corporation property tax under KRS 136.120.

Section 14. KRS 136.616 is amended to read as follows:

(1) A tax is hereby imposed on the gross revenues received by all providers.

(2) The tax rate shall be:

(a) Two and four-tenths percent (2.4%) of the gross revenues received for the provision of multichannel video programming service provided to a person whose place of primary use is in this state, billed on or after January 1, 2006; and

(b) One and three-tenths percent (1.3%) of the gross revenues received for the provision of communications services, as sourced under the provisions of ***Section 15 of this Act***[~~KRS 139.105~~], billed on or after January 1, 2006.

(3) The provider shall not collect the tax directly from the purchaser or separately state the tax on the bill to the purchaser.

(4) (a) The tax imposed by this section shall apply to all providers except a municipal utility. "Municipal utility" as used in this section means a utility owned, operated, and controlled directly or indirectly by a city of the first, second, third, fourth, fifth or sixth class.

(b) To the extent that the provisions of KRS Chapter 279 are inconsistent with KRS 136.600 to 136.660, KRS 136.600 to 136.660 shall control.

SECTION 15. A NEW SECTION OF KRS 136.600 TO 136.660 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of KRS 136.600 to 136.660 the retailer shall source communications services as follows:

(a) A sale of mobile telecommunications services, other than air-to-ground radiotelephone service and prepaid wireless calling service, shall be sourced to the customer's or other purchaser's place of primary use;

(b) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from its service provider, where the system used to transport the signals is not that of the retailer;

(c) A sale of prepaid calling service or a sale of a prepaid wireless calling service shall be sourced as follows:

1. Over the counter. The sale is sourced to the business location of the seller;

2. Delivery to a specified address. The sale is sourced to the specified address when a purchaser or purchaser's donee receives the service at a location specified by the purchaser; or

3. Delivery address unknown. When the retailer does not know the address where the service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:

a. The address of the purchaser available from the business records of the retailer;

b. The billing address of the purchaser;

c. The address from which the service was provided; or

d. In the case of a sale of prepaid wireless calling service, the location associated with the mobile telephone number.

(d) A sale of a private communications service shall be sourced as follows:

1. Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.

2. Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.

3. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

4. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(e) A sale of other communications services :

1. Sold on a call-by-call basis shall be sourced based on the taxing jurisdiction where the call either originates or terminates and in which the service address is also located; or

2. Sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.

(2) For purposes of this section:

(a) "Air-to-ground radiotelephone service" has the same meaning as in Section 3 of this Act;

(b) "Call-by-call basis" means any method of charging for communications services where the price is measured by individual calls;

(c) "Communications channel" has the same meaning as in Section 3 of this Act;

(d) "Customer" has the same meaning as in Section 3 of this Act;

(e) "Customer channel termination point" has the same meaning as in Section 3 of this Act;

(f) "Home service provider" has the same meaning as in Section 3 of this Act;

(g) "Post-paid calling service" means a communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the communications service. A post-paid calling service includes a communications service, except a prepaid wireless calling service, that would be a prepaid service except that it is not exclusively a communications service.

(h) "Prepaid calling service" means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(i) "Prepaid wireless calling service" means a communications service that:

1. Provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services;

2. Must be paid for in advance; and

3. Is sold in predetermined units of dollars of which the number declines with use in a known amount.

(j) "Private communications service" means a communications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels; and

(k) "Service address" has the same meaning as in Section 3 of this Act.

Section 16. KRS 136.620 is amended to read as follows:

(1) The taxes imposed by KRS 136.604 and 136.616 are due and payable monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

(2) On or before the twentieth day of each month, every provider shall file a return for the preceding month with the department in the form prescribed by the department, together with payment of any tax due. The department may allow a provider subject to the taxes imposed under KRS 136.604 and 136.616 to file a single return reporting tax liabilities under both taxes for each reporting period.

(3) The return shall show the:

(a) Gross revenues received subject to the tax imposed under KRS 136.616;

(b) Amount billed by the provider for multichannel video programming service subject to the tax imposed under KRS 136.604;

(c) Amount of the tax due under KRS 136.604 and 136.616; and

(d) Any other information as the department deems necessary for the proper administration of KRS 136.600 to 136.660.

(4) In the case where the purchaser is liable for the payment of the tax under KRS 136.606(2), the purchaser shall file the return showing the total amount paid for multichannel video programming service that is subject to tax during the reporting period.

(5) The return shall be signed by the person required to file the return or a duly authorized agent.

(6) The person required to file the return shall deliver the return, together with a remittance of the amount of tax due, to the department.

(7) For the purpose of facilitating the administration, payment, or collection of the taxes levied under KRS 136.600 to 136.660, the department may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section.

(8) For purposes of calculating the excise tax imposed under KRS 136.604, if tangible personal property normally subject to

sales and use tax under KRS Chapter 139 is sold with multichannel video programming service as a single package for one (1) price, and the tangible personal property is necessary for the provision of the multichannel video programming service, the tax required to be collected by the provider shall be the tax imposed by KRS 136.604.

(9) For purposes of calculating the excise tax imposed under KRS 136.604, if communications services subject to sales and use tax under KRS Chapter 139 is sold with multichannel video programming service as a single package for one (1) price, ***the portion of the sales price attributable to the communications services shall be subject to the excise tax unless the provider can identify, by reasonable and verifiable standards, the communications services from its books and records that are kept in the regular course of business for other purposes, including but not limited to nontax purposes***~~[the tax required to be collected by the provider shall be the sales and use tax under KRS Chapter 139]~~.

(10) For purposes of calculating the gross revenues tax imposed under KRS 136.616, if communications service is sold with multichannel video programming service as a single package for one (1) price, the gross revenues shall be taxed at the rate of two and four-tenths percent (2.4%).

(11) For purposes of calculating the gross revenues tax imposed under KRS 136.616, if tangible personal property is sold with:

(a) Multichannel video programming service for one (1) price, the gross revenues shall be taxed at the rate of two and four-tenths percent (2.4%); and

(b) Communications service for one (1) price, the gross revenues shall be taxed at the rate of one and three-tenths percent (1.3%).

Section 17. KRS 160.6131 is amended to read as follows:

As used in KRS 160.613 to 160.617:

(1) "Department" means the Department of Revenue.

(2) "Communications service" ***means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.***

(a) "Communications service" includes but is not limited to:

1. Local and long-distance telephone services;

2. Telegraph and teletypewriter services;

3. Postpaid calling services;

4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;

5. Channel services involving a path of communications between two (2) or more points;

6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;

7. Caller ID services, ring tones, voice mail and other electronic messaging services;

8. Mobile wireless telecommunications service and fixed wireless service as defined in Section 3 of this Act; and

9. Voice over Internet Protocol (VOIP).

(b) "Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:

1. Information services;

2. Internet access as defined in 47 U.S.C. sec. 151;

3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;

4. The sale of directory and other advertising and listing services;

5. Billing and collection services provided to another communications service provider;

6. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996;

7. The sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale, including:

a. Carrier access charges, excluding user access fees;

b. Right of access charges;

c. Interconnection charges paid by the provider of mobile telecommunications services or other

communications providers;

d. Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is provided on an unbundled basis in accordance with 47 U.S.C. sec. 251(c)(3); and

e. Charges for use of facilities for providing or receiving communications service; and

8. The sale of communications services provided to the public by means of a pay phone.~~[shall have the same meaning as provided in KRS 139.195 but does not include:]~~

9.~~[(a)]~~ Prepaid calling services ***and prepaid wireless calling service***;

10.~~[(b)]~~ Interstate telephone service, if the interstate charge is separately itemized for each call; and

11.~~[(c)]~~ If the interstate calls are not itemized, the portion of telephone charges identified and set out on the customer's bill as interstate as supported by the provider's books and records.

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased.

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services.

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas.

(6) "Cable service" has the same meaning as provided in KRS 136.602.

(7) "Satellite broadcast and wireless cable service" has the same meaning as provided in KRS 136.602.

(8) "Ring tones" has the same meaning as provided in Section 13 of this Act.

Section 18. KRS 160.6151 is amended to read as follows:

For purposes of administering the taxes authorized by KRS 160.613 and 160.614 relating to the sourcing of communications services and the rights of customers, the provisions of ***Sections 13 and 15 of this Act***~~[KRS 139.105(2), 139.195,]~~ and ***KRS*** 139.775 shall apply.

Section 19. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property sold by any person for delivery in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270;

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.270;

(3) Purchased according to regulations of the Department of Revenue governing a direct pay authorization; or

(4) Purchased under a form issued pursuant to KRS~~[139.776 or]~~ 139.777.

Section 20. KRS 139.471 is amended to read as follows:

Excluded from the additional taxes imposed by KRS 139.200 ***and***~~[,]~~ 139.310~~[, and 139.320]~~ are gross receipts:

(1) Derived from sales of and the storage, use, or other consumption of tangible personal property purchased for use in the performance of a lump-sum, fixed fee contract executed on or before March 9, 1990;

(2) Derived from sales made under fixed price sales contracts executed on or before March 9, 1990, provided the contract specifies a five percent (5%) sales tax rate; and

(3) Derived from a lease or rental agreement entered into on or before March 9, 1990.

Section 21. KRS 139.783 is amended to read as follows:

It is the intent and purpose of the General Assembly in enacting KRS 139.780 to 139.795 to encourage and increase voluntary compliance with Kentucky's sales and use tax law by entering into ***the SSUTA***~~[an]~~ agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

Section 22. KRS 139.785 is amended to read as follows:

(1) The department is authorized and directed to enter into the ***SSUTA*** agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the ***SSUTA*** agreement, the department is authorized to act jointly with other states that are members of the ***SSUTA*** agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(2) The department is further authorized to take other actions reasonably required to implement the provisions set forth in KRS 139.780 to 139.795. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative

agreement. Notwithstanding the provisions of KRS Chapter 13A, the department may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.

(3) The commissioner of the Department of Revenue or the commissioner's designee, the state budget director or the director's designee, and two (2) legislators are authorized to represent this state before the other states that are signatories to the ***SSUTA*** agreement. One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

Section 23. KRS 139.787 is amended to read as follows:

No provision of the ***SSUTA*** agreement authorized by KRS 139.780 to 139.795 in whole or in part invalidates or amends any provision of the law of this state. Adoption of the ***SSUTA*** agreement by the state does not amend or modify any law of this state. Implementation of any condition of the ***SSUTA*** agreement in this state, whether adopted before, during, or after membership of this state in the ***SSUTA*** agreement, shall be by action of this state.

Section 24. KRS 139.789 is amended to read as follows:

The department shall not enter into the ***SSUTA*** agreement unless the ***SSUTA*** agreement requires each state to abide by the following requirements:

(1) The ***SSUTA*** agreement shall set restrictions to achieve more uniform state rates through the following:
   (a) Limiting the number of state rates;
   (b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and
   (c) Limiting the application of thresholds on the application of state tax.

(2) The ***SSUTA*** agreement shall establish uniform standards for the following:
   (a) The sourcing of transactions to taxing jurisdictions;
   (b) The administration of exempt sales;
   (c) The allowances a seller can take for bad debts; and
   (d) Sales and use tax returns and remittances.

(3) The ***SSUTA*** agreement shall require states to develop and adopt uniform definitions of sales and use tax terms. The definitions shall enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

(4) The ***SSUTA*** agreement shall provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(5) The ***SSUTA*** agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory state will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(6) The ***SSUTA*** agreement shall provide for a reduction of the burdens of complying with local sales and use taxes through the following:
   (a) Restricting variances between the state and local tax bases;
   (b) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;
   (c) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and
   (d) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(7) The ***SSUTA*** agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

(8) The ***SSUTA*** agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance under the laws of the member state, with all provisions of the ***SSUTA*** agreement while a member.

(9) The ***SSUTA*** agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(10) The ***SSUTA*** agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the ***SSUTA*** agreement.

Section 25. KRS 139.791 is amended to read as follows:

The ***SSUTA*** agreement authorized by KRS 139.780 to 139.795 is an accord among individual, cooperating sovereigns in furtherance of their governmental functions. The ***SSUTA*** agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

Section 26. KRS 139.793 is amended to read as follows:

(1) The ***SSUTA*** agreement authorized by KRS 139.780 to 139.795 binds and inures only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the ***SSUTA*** agreement. Any benefit to a person other than a state is established by the law of the state and the other member states and not by the terms of ***the SSUTA***[~~this~~] agreement.

(2) Consistent with subsection (1) of this section, no person shall have any cause of action or defense under the ***SSUTA*** agreement or by virtue of this state's approval of the ***SSUTA*** agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the ***SSUTA*** agreement.

(3) No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the ***SSUTA*** agreement.

Section 27. KRS 139.794 is amended to read as follows:

(1) According to the provisions of the ***SSUTA*** agreement, a seller who registers under the terms of the ***SSUTA*** agreement to pay or to collect and remit applicable sales and use tax on sales made in Kentucky shall be exempt from assessment for uncollected or unpaid sales or use tax together with penalty and interest for sales made during the period the seller was not registered in Kentucky if:

 (a) The seller was not registered in Kentucky in the twelve (12) month period preceding the effective date of Kentucky's participation in the ***SSUTA*** agreement; and

 (b) The seller registers in Kentucky within twelve (12) months of the effective date of Kentucky's participation in the ***SSUTA*** agreement.

(2) The exemption is not available to a seller with respect to any matter or matters for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved, including any related administrative and judicial processes.

(3) The exemption is not available for sales or use taxes already paid or remitted to the state or to taxes collected by the seller.

(4) The exemption is fully effective, absent the seller's fraud or intentional misrepresentation of a material fact, if the seller remains registered and continues payment or collection and remittance of applicable sales or use taxes for a period of at least thirty-six (36) months. During this thirty-six (36) month period, the statute of limitations shall be suspended for the seller remaining in compliance with registration and payment requirements. Failure to meet these terms will result in a revocation of the exemption.

(5) This exemption shall apply to sales or use taxes due from a seller in its capacity as a seller and shall not apply to sales and use taxes due from a seller in its capacity as a buyer.

Section 28. KRS 139.990 is amended to read as follows:

(1) Any person who executes:

 (a) A resale certificate for property in accordance with KRS 139.270 knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;

 (b) An exemption certificate for property in accordance with KRS 139.270, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner;

 (c) A direct pay authorization for property not in accordance with 103 KAR 31.030; or

 (d) ***A***[~~An MPU exemption form or~~] Direct Mail Form issued not in accordance with the provisions ***of*** KRS[~~ 139.776 or~~] 139.777;

shall be guilty of a Class B misdemeanor.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.

(3) Any person who violates any of the provisions of KRS 139.220, 139.380, or 139.700 shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the regulations promulgated by the department shall be guilty of a Class B misdemeanor.

(5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 29. The following KRS sections are repealed:

139.320 Use tax on machinery brought into state for construction project.

139.776 Multiple points of use exemption form.

Section 30. This Act takes effect July 1, 2007.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 51,** with Committee Substitute attached thereto, **HB 59, HB 92,** with Committee Amendment attached thereto, **HB 105, HB 128, HB 167,** with Committee Substitute attached thereto, and **HB 280** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 51, AN ACT relating to Kentucky State Parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A Kentucky resident shall be entitled to a twenty percent (20%) discount per night from the relevant overnight accommodations rate at any Kentucky State Park if he or she is:

(a) A member of the military forces of the United States;

(b) A member of the Kentucky National Guard; or

(c) A veteran who has received an honorable discharge.

(2) The discounted rate shall apply to overnight stays at cottages, lodge rooms, camp sites, and any other overnight state park accommodations.

(3) If a person is eligible for benefits under KRS 148.0211, then he or she shall also be eligible under this section for discounts on accommodations at a Kentucky State Park that are not covered b KRS 148.0211.

(4) The Department of Parks shall promulgate administrative regulations relating to proof of eligibility for persons entitled to the discount provided for in this section.

The Committee Substitute to **HB 51** is as follows:

HB 51, AN ACT relating to Kentucky State Parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A Kentucky resident shall be entitled to a fifteen percent (15%) discount per night from the relevant overnight accommodations rate at any Kentucky State Park if he or she is:

(a) A member of the military forces of the United States;

(b) A member of the Kentucky National Guard; or

(c) A veteran who has received an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge.

(2) Kentucky residents who qualify for a discount under subsection (1) of this section shall also be entitled to a fifteen percent (15%) discount on purchases made at Kentucky State Parks gift shops, and to a fifteen percent (15%) discount on rounds of golf played on Kentucky State Parks golf courses beginning after 2 p. m. local time.

(3) In order to obtain the discounts provided by subsections (1) and (2) of this section, Kentucky residents who are members of the military forces of the United States or the Kentucky National Guard shall present both of the following as proof of eligibility:

(a) The member's military identification card; and

(b) An operator's license, a commercial driver's license, or a personal identification card issued by the Transportation Cabinet.

(4) In order to obtain the discounts provided by subsections (1) and (2) of this section, Kentucky residents who are veterans as described in subsection (1)(c) of this section shall present both of the following as proof of eligibility:

(a) The documentation required to establish that a Kentucky resident is a veteran under administrative regulations promulgated under subsection (5) of this section; and

(b) An operator's license, a commercial driver's license, or a personal identification card issued by the Transportation Cabinet.

(5) After consultation with the Kentucky Department of Veterans' Affairs, the Kentucky Department of Parks shall

promulgate administrative regulations that set forth the documentation required to establish that a Kentucky resident is a veteran.

(6) If a person is eligible for benefits under KRS 148.0211, then he or she shall also be eligible for the discounts provided by subsections (1) and (2) of this section.

HB 59, AN ACT relating to operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

(d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A personal identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.

(e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(8) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a

color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) ***(a)*** If a citizen of the Commonwealth has been serving in the United States military ***stationed or assigned to a base or other location outside the boundaries of the Commonwealth*** and has allowed his ***or her*** operator's license to expire, he ***or she*** shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his ***or her*** license without having to take a written test or road test.

(b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.

(c) A citizen ***who meets the criteria in paragraph (a) of this subsection and*** who does not renew his ***or her*** license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.

(d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 2. KRS 36.450 is amended to read as follows:

(1) *Except as provided for in subsection (5) of this section,* notwithstanding any other provision of law, a license, permit, or certification held by a member of the United States Armed Forces, including a member of the Kentucky National Guard or Reserve on federal active duty, that expires while that member is deployed overseas shall be extended until ninety (90) days after the end of the deployment.

(2) The hiring, licensing, permitting, or certifying authority shall renew a license, permit, or certification extended under subsection (1) of this section until the next date that the license, permit, or certification expires or for the period that the license, permit, or certification is normally issued, at no cost to the member, if that member:

(a) Requests renewal of the license, permit, or certification within ninety (90) days after the end of overseas deployment;

(b) Provides the hiring, licensing, permitting, or certifying authority with a copy of the member's official orders ending the overseas deployment; and

(c) Meets all the requirements necessary for the renewal of the license, permit, or certification, except that the member need not meet the requirements, if any, that relate to continuing education or training.

(3) (a) The possession by a member specified in subsection (1) of this section of a license, permit, or certification, together with orders for overseas deployment, shall constitute a de facto extension of the license, permit, or certification until its expiration pursuant to subsection (1) of this section or until the license, permit, or certificate is renewed by the hiring, licensing, permitting, or certifying authority, whichever occurs later.

(b) The possession of a license, permit, or certification, together with orders for overseas deployment, shall constitute, during the period specified in paragraph (a) of this subsection, a defense to any charge for possession of an expired license, permit, or certification by the member specified in subsection (1) of this section.

(4) In order to avoid confusion regarding the status of a license, permit, or certification, a service member specified in subsection (1) of this section may provide the hiring, licensing, permitting, or certifying authority a copy of the service member's overseas deployment orders. Upon receipt of the service member's overseas deployment orders, the receiving agency shall indicate the license as extended as provided in this section in the agency's records. Failure of a service member to provide overseas deployment information to the hiring, licensing, permitting, or certifying authority shall have no effect on the automatic extension of the license, permit, or certification or its renewal as provided in this section. No hiring, licensing, permitting, or certifying agency shall take any adverse action with regard to the renewal of the license, permit, or certification of a service member who has been the subject of an overseas deployment and who has not notified the agency of the overseas deployment.

(5) This section shall not apply to a motor vehicle or motorcycle operator's license issued under KRS Chapter 186, a motor vehicle registration issued under KRS Chapter 186, or a commercial driver's license issued under KRS Chapter 281A.

HB 92, AN ACT relating to deferred deposit transaction service fees charged to members of the Armed Forces, members of the National Guard or Reserve component or federal active duty, and their dependents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 9 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Covered member" means a member of:

1. The Armed Forces of the United States who is on active duty under a call or order that does not specify a period of thirty (30) days or less; or

2. The National Guard or Reserve Component on federal active duty;

(b) "Dependent," with respect to a covered member, means:

1. The member's spouse;

2. The member's child as defined in 38 U.S.C. sec. 101(4); or

3. An individual for whom the member provided more than one-half (1/2) of the individual's support for one hundred eighty (180) days immediately preceding a deferred deposit transaction covered by this section; and

(c) "Annual percentage rate" has the same meaning as in Section 107 of the Truth in Lending Act, 15 U.S.C. sec. 1606, as implemented by regulations of the Board of Governors of the Federal Reserve System. For purposes of

this section, "annual percentage rate" includes all fees and charges imposed by a licensee for a deferred deposit transaction under this subtitle.

(2) A licensee shall not charge a service fee to a covered member of the armed forces or a dependent of a covered member which will yield a sum greater than an annual percentage rate of thirty-six percent (36%).

Section 2. KRS 286.9-100 is amended to read as follows:

(1) Each licensee shall keep and use in its business any books, accounts, and records the office may require to carry into effect the provisions of KRS 286.9-010 to 286.9-120 and the administrative regulations issued under those sections. Every licensee shall preserve the books, accounts, and records for at least two (2) years.

(2) Any fee charged by a licensee for cashing a check shall be disclosed in writing to the bearer of the check prior to cashing the check, and the fee shall be deemed a service fee and not interest. A licensee shall not charge a service fee in excess of fifteen dollars ($15) per one hundred dollars ($100) on the face amount of the deferred deposit check***, except as provided in Section 1 of this Act***. A licensee shall prorate any fee, based upon the maximum fee of ***allowed under this subtitle***[~~fifteen dollars ($15)~~]. This service fee shall be for a period of fourteen (14) days.

(3) Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

(4) No licensee shall cash a check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.

(5) No licensee shall indicate through advertising, signs, billhead, or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the office. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.

(6) Within five (5) business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the office and the Commonwealth's attorney for the judicial circuit in which the check was received. If a check, draft, or money order is returned to the licensee by the payor financial institution for any of these reasons, the licensee shall not release the check, draft, or money order without the consent of the Commonwealth's attorney or other investigating law enforcement authority.

(7) No licensee shall alter or delete the date on any check accepted by the licensee.

(8) No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.

(9) No licensee shall require a customer to provide security for the transaction or require the customer to provide a guaranty from another person.

(10) A licensee shall not have more than one (1) deferred deposit transaction from any one (1) customer at any one time, with a face value greater than five hundred dollars ($500).

(11) Each licensee shall inquire of any person seeking to present a deferred deposit transaction, whether the person has any outstanding deferred deposit transactions from any licensees. If the customer represents in writing that the customer has no more than one (1) deferred deposit transaction outstanding to any licensee and that the face value of the outstanding deferred deposit transaction issued by the customer does not equal or exceed five hundred dollars ($500), a licensee may accept a deferred deposit transaction in an amount that, when combined with the customer's other outstanding deferred deposit transaction, does not exceed five hundred dollars ($500). If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to any licensee or if the face value of the deferred deposit transaction issued by the customer equals or exceeds five hundred dollars ($500), a licensee shall not accept another deferred deposit transaction from that customer until the customer represents to the licensee in writing that the customer qualifies to issue a new deferred deposit transaction under the requirements set forth in this section.

(12) A licensee shall not use any device or agreement, including agreements with affiliated licensees, with the intent to obtain greater charges than are authorized in this section.

(13) No licensee shall agree to hold a deferred deposit transaction for more than sixty (60) days.

(14) Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the licensee or an authorized agent of the licensee, and made available to the office upon request. The customer shall receive a copy of this agreement.

(15) A licensee or its affiliate shall not for a fee renew, roll over, or otherwise consolidate a deferred deposit transaction for a customer.

(16) No individual who enters into a deferred deposit transaction with a licensee shall be convicted under the provisions of KRS 514.040.

(17) No licensee who enters into a deferred deposit transaction with an individual shall prosecute or threaten to prosecute an individual under the provisions of KRS 514.040.

(18) Each licensee shall conspicuously display in every deferred deposit business location a sign that gives the following notice: "No person who enters into a post-dated check or deferred deposit check transaction with this business establishment will be prosecuted or convicted of writing cold checks or of theft by deception under the provisions of KRS 514.040.

The Committee Amendment No. 1 Title to **HB 92** is as follows:

HB 92, Amend the title to read as follows: "AN ACT relating to deferred deposit transaction service fees charged to members of the Armed Forces, members of the National Guard or Reserve component on federal active duty, and their dependents."

HB 105, AN ACT relating to impersonating a veteran.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of impersonating a veteran of the United States Armed Forces, Reserve Component, or National Guard if that person represents himself or herself as a veteran with the intent to defraud for the purpose of personal gain. Personal gain shall include, but not be limited to, government benefits, public office, and employment.

(2) Impersonating a veteran of the United States Armed Forces, Reserve Component, or National Guard is a Class A misdemeanor, unless a more severe penalty for the offense is applicable, in which case the higher penalty shall apply.

HB 128, AN ACT relating to honoring military service through education benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.507 is amended to read as follows:

(1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, under the age of *twenty-four (24)*[~~twenty-three (23)~~], of a deceased veteran shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:

(a) 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or

2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or

3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and

(b) 1. Was a resident of the Commonwealth of Kentucky at the time of death; or

2. Was married to a resident of Kentucky at the time of death; and

3. If discharged, was under honorable conditions.

(2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 2. KRS 164.515 is amended to read as follows:

(1) The spouse, regardless of age, and any child, stepchild, or orphan, under the age of *twenty-four (24)*[~~twenty-three (23)~~], of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated

permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.

(3) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.

(5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable conditions; the period of time spent in the military service to be compensated by like time, beyond the age of ***twenty-four (24)***[~~twenty-three (23)~~] years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

(6) The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

HB 167, AN ACT relating to Kentucky State Parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A Kentucky resident shall be exempt from the relevant overnight accommodations rate at any Kentucky State Park if he or she is:

(a) A permanently and totally disabled war veteran;

(b) A one hundred percent (100%) service-connected disabled veteran, regardless of wartime service; or

(c) A permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty training, or inactive duty training.

(2) To be entitled to the exemption under this section, the Kentucky resident must be rated permanently and totally disabled for pension purposes, or one hundred percent (100%) disabled for compensation purposes, by the United States Veterans Administration or the Department of Defense. Members of the Kentucky National Guard or Reserve Component must be rated permanently and totally disabled as provided in KRS Chapter 342.

(3) The exemption shall apply to overnight stays at cottages, lodge rooms, camp sites, and any other overnight park accommodations.

(4) The Department of Parks shall promulgate administrative regulations relating to proof of eligibility for persons entitled to the exemption provided for in this section.

The Committee Substitute to **HB 167** is as follows:

HB 167, AN ACT relating to Kentucky State Parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A Kentucky resident shall be exempt from the relevant overnight accommodations rate at any Kentucky State Park if he or she is:

(a) A permanently and totally disabled war veteran;

(b) A one hundred percent (100%) service-connected disabled veteran, regardless of wartime service; or

(c) A permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty training, or inactive duty training.

(2) To be entitled to the exemption under this section, the Kentucky resident must be rated permanently and totally disabled for pension purposes, or one hundred percent (100%) disabled for compensation purposes, by the United States Veterans Administration or the Department of Defense. Members of the Kentucky National Guard or Reserve Component must be rated permanently and totally disabled as provided in KRS Chapter 342.

(3) The exemption shall be made available to qualified Kentucky residents as described in subsection (1) of this section, Sunday through Thursday of each week, and shall apply to a maximum of five (5) overnight stays per calendar year at lodge rooms and campsites at any Kentucky State Park.

(4) The Department of Parks shall promulgate administrative regulations relating to proof of eligibility for persons entitled to the exemption provided for in this section.

(5) The exemption described in this section shall not limit the benefits of a qualified Kentucky resident if he or she is also eligible for benefits under KRS 148.0211.

HB 280, AN ACT relating to military burials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.076 is amended to read as follows:

(1) ***(a)*** A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant.

(b) At the time of obtaining the required personal and statistical particulars from the informant referred to in paragraph (a) of this subsection, the funeral director, or person acting as such, shall ask the informant if the deceased ever served in the military. If the informant answers in the affirmative, then the funeral director, or person acting as such, shall provide the informant with a fact sheet, stating military burial rights, supplied by the Kentucky Department of Veterans' Affairs.

(c) The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(d)[~~(a)~~]It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(e)[~~(b)~~]All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(f)[~~(c)~~] If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(g)[~~(d)~~] If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, and if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the death certificate shall be marked "Amended." In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and

death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Vital Statistics Branch. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and

2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Vital Statistics Branch shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Vital Statistics Branch for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health and Family Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health and Family Services and the local health department. The Cabinet for Health and Family Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health and Family Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of

knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

The Committee on Judiciary reported **HB 7,** with Committee Substitute attached thereto, **HB 82,** with Committee Substitute attached thereto, **HB 125, HB 175,** with Committee Substitute attached thereto, and **HB 214,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context requires otherwise:

(1) "Agency" means any public agency of the executive branch of the Commonwealth of Kentucky or its subdivisions, unless the context requires otherwise;

(2) "Business" means a sole proprietorship, partnership, company, corporation, firm, association, or other group, however organized and whether or not organized to operate at a profit. "Business" shall not include any government or governmental subdivision or agency;

(3) "Consumer" means an individual who is a resident of Kentucky, or his or her legal guardian, or his or her attorney-in-fact specifically appointed for the exercise of rights provided in Sections 1 to 5 of this Act;

(4) "Encrypt" means use of an algorithmic process to transform data into a form in which the data are rendered unreadable or unusable without use of a confidential process or key;

(5) "Person" means any individual, partnership, corporation, company, trust, estate, cooperative, association, or other entity, but does not include a government or governmental subdivision or agency;

(6) "Personal information" means an individual's first name or first initial and last name, or birth date, in combination with any of the following identifying information of the individual:

(a) Account number;

(b) Code;

(c) Password;

(d) Social Security number;

(e) Tax identification number;

(f) Driver's license number;

(g) Personal identification number;

(h) Credit card number;

(i) Debit card number; or

(j) Medical information.

"Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records;

(7) "Records" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics;

(8) "Redact" means rendering data so that it is unreadable or is truncated so that no more than the last four (4) digits of the identification number are accessible as part of the data; and

(9) "Security breach" means unauthorized acquisition of unencrypted or unredacted records or data that compromises the security, confidentiality, or integrity of personal information. "Security breach" also means unauthorized acquisition of encrypted records or data containing personal information along with the confidential process or key to unencrypt the records or data. Good-faith acquisition of personal information by an employee or agent of the business or agency for the purposes of the business or agency is not a security breach, if the personal information is not used for a purpose unrelated to the business or agency or subject to further unauthorized disclosure.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, it shall be unlawful for a business to do any of the following:

(a) Intentionally communicate or otherwise make available to the general public or a nonaffiliated third party a consumer's Social Security number;

(b) Print a consumer's Social Security number on any card required for the consumer to access products or

services provided by the business;

(c) Require a consumer to transmit his or her Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted;

(d) Require a consumer to use his or her Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site;

(e) Print a consumer's Social Security number on any materials that are mailed to the consumer, unless state or federal law requires the Social Security number to be on the document to be mailed; or

(f) Disclose a consumer's Social Security number when the party making the disclosure knows or in the exercise of reasonable diligence would have reason to believe that the third party lacks a legitimate purpose for obtaining the consumer's Social Security number.

(2) Subsection (1) of this section shall not apply in the following instances:

(a) When a Social Security number is included in an application or in documents related to an enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number for the purpose of obtaining a consumer report pursuant to 15 U.S.C. sec. 1681b. A Social Security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened;

(b) To the collection, use, or release of a Social Security number:

1. For internal verification or administrative purposes;

2. To investigate or prevent fraud;

3. To conduct background checks, as permitted by law;

4. To collect a debt;

5. To undertake a permissible purpose enumerated under or disclosure permitted by the Fair Credit Reporting Act, as amended, 15 U.S.C. sec. 1681 et seq.; or for any purpose set forth in section 502(e) of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6802(e);

6. To locate a person who is due a benefit, such as a pension, insurance, or unclaimed property benefit;

7. To act pursuant to a court order, warrant, subpoena, or when otherwise required by law; or

8. To provide the Social Security number to a federal, state, or local government entity, including a law enforcement agency or court, or their agents or assigns; and

(c) To a Social Security number that has been redacted.

(3) Any waiver of the provisions of this section is contrary to public policy and is void and unenforceable.

(4) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts or practices declared unlawful by this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any business or agency that conducts business in Kentucky, and owns or licenses data that include personal information, to fail to notify a resident of Kentucky of a security breach of that resident's personal information, following discovery or notification of an occurrence of a security breach, or when the business or agency has a reasonable belief that a security breach has occurred. The notification shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) of this section, or any measures necessary to determine the scope of the security breach and restore the reasonable integrity of the data system.

(2) Any business or agency that maintains data that include personal information that the business or agency does not own shall notify the owner or licensee of the information of any security breach of the information immediately following discovery.

(3) The notice required by this section shall be delayed if the business or agency receives a written request from a law enforcement agency to delay the notice because the notice may impede a criminal investigation. The notice required by this section shall be provided without unreasonable delay after the law enforcement agency communicates to the business or agency its determination that notice will no longer impede the investigation. The request to delay the notice and the communication to end the delay shall be in writing, or the business or agency shall document the request and communication contemporaneously in writing, and shall include the name of the law enforcement officer and law enforcement agency making the request.

(4) The notice required by subsection (1) of this section shall be clear and conspicuous. The notice shall include a description of the following:

(a) The incident in general terms;

(b) The type of personal information that was subject to the unauthorized acquisition;

(c) The general acts of the business or agency to protect the personal information from further unauthorized acquisition;

(d) A telephone number that the consumer may call for further information and assistance, if one exists; and

(e) A statement that the consumer should remain vigilant by reviewing account statements and monitoring free credit reports.

(5) For purposes of this section, notice to affected consumers shall be provided by at least one (1) of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. sec. 7001; or

(c) Substitute notice, if the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or the affected class of subject persons to be notified exceeds five hundred thousand (500,000), or that the business or agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

1. E-mail notice when the business or agency has an e-mail address for the subject persons;

2. Conspicuous posting of the notice on the Web site page of the business or agency , if the business or agency maintains one; and

3. Notification to major statewide media.

(6) Any business or agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information that is substantially consistent with the requirements of this section shall be deemed to be in compliance with the notification requirements of this section if the business or agency notifies subject persons in accordance with its notification procedures in the event of a security breach.

(7) Any waiver of the provisions of this section is contrary to public policy and is void and unenforceable.

(8) This section does not apply to the following:

(a) Any bank or financial institution that is subject to and in compliance with the privacy and security provisions of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6801 et seq;

(b) Any person that is subject to and in compliance with the standards for privacy of individually identifiable health information and the security standards for the protection of electronic health information of the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations adopted thereto, as amended; and

(c) Any consumer reporting agency that is subject to and in compliance with the privacy and security provisions of the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681 et seq., as amended.

(9) In the event that a business or agency provides notice to more than one thousand (1,000) consumers at one (1) time pursuant to this section, the business or agency shall notify, without unreasonable delay, the Office of Consumer Protection of the Office of the Attorney General and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. sec. 1681a(p), of the timing, distribution, and content of the notice.

(10) The business or agency providing a notice pursuant to this section shall cooperate with reasonable requests from the Office of Consumer Protection of the Office of the Attorney General, consumer reporting agencies, or recipients of the notice, to verify the authenticity of the notice.

(11) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts or practices declared unlawful by this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) (a) It shall be unlawful for any business or agency that conducts business in Kentucky and maintains or otherwise possesses personal information of a resident of Kentucky, regardless of the form in which the personal information is maintained, to fail to implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect and safeguard against security breaches.

(b) A business may comply with the requirements of this subsection if the actions of the business conform to the requirements for entities subject to the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6801 et seq., for safeguarding customer information.

(2) This section does not apply to the following:

(a) Any bank or financial institution that is subject to and in compliance with the privacy and security provision of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6801 et seq;

(b) Any person that is subject to and in compliance with the standards for privacy of individually identifiable health information and the security standards for the protection of electronic health information of the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations adopted thereto, as amended; and

(c) Any consumer reporting agency that is subject to and in compliance with the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681 et seq., as amended.

(3) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts or practices declared unlawful by this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The Attorney General may promulgate administrative regulations necessary for the proper administration and enforcement of Sections 1 to 5 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 5 of this Act limits the power of any agency of the Commonwealth of Kentucky to enforce criminal or civil provisions of any chapter of the Kentucky Revised Statutes or the right of any person to bring civil actions granted by any chapter of the Kentucky Revised Statutes or common law and based upon conduct prohibited herein, and nothing in this chapter limits the power of the Commonwealth of Kentucky to punish any person for any conduct which constitutes a criminal offense.

(2) The remedies and penalties provided in Sections 1 to 5 of this Act shall be in addition to any other remedies or penalties for any conduct provided for by common law or statute.

(3) The Attorney General may bring a civil action regarding a violation of Sections 1 to 5 of this Act directly in the Franklin Circuit Court, or in the Circuit Court of any county in which the unlawful conduct occurred or in which an affected consumer resides.

SECTION 7. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A person who has learned or reasonably suspects that his or her identity or personal information has been used, without his or her consent, in violation of KRS 514.160 or any other criminal statute, may make a complaint to any office of the Kentucky State Police, the local law enforcement agency where jurisdiction may lie for investigation and prosecution of the criminal offense, or the local law enforcement agency that has jurisdiction over his or her actual residence.

(2) Regardless of where jurisdiction may lie for investigation and prosecution of the offense, the office of the Kentucky State Police or the local law enforcement agency shall take the complaint, and provide the complainant with a copy of the report form used to take the complaint.

SECTION 8. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "identity theft" means the use of an individual's identity or personal information, without that individual's consent, in violation of KRS 514.160 or any other criminal statute.

(2) An individual who reasonably believes that he or she is a victim of identity theft may petition the Circuit Court, in a civil action, for an expedited determination that he or she is a victim of identity theft.

(3) The petition may be filed in the Circuit Court either where the petitioner resides or where related proceedings have been filed.

(4) A petition filed under this section shall be verified by the petitioner and include at least the following:

(a) A description of the facts and circumstances relating to the identity theft;

(b) A statement of the nature of the relief sought by the petitioner;

(c) A copy of the related police report, if any; and

(d) If known, the case number and court of each related proceeding, if any, and the status thereof.

(5) The petitioner shall certify that he or she has served a copy of the petition upon any opposing party or prosecutor for a related proceeding identified in the petition.

(6) A petition may be filed under this section regardless of whether the petitioner is able to identify the person or persons who allegedly engaged in the identity theft.

(7) The court fee for filing a petition under this section shall be the same as the filing fee for small claims filed in the District Court.

(8) The clerk of the court shall provide a copy of the petition to the Commonwealth's attorney and county attorney for the county in which the petition is filed, within three (3) business days of the date the petition is filed.

(9) The Commonwealth's attorney or county attorney, or any party or prosecutor for a related proceeding identified in the petition, may respond to the petition within twenty (20) business days of the date the petition is filed, and may participate in and introduce evidence at a hearing on the petition.

(10) A hearing on a petition filed under this section shall be held within thirty (30) business days of the date the petition is filed.

(11) (a) A judicial determination made pursuant to this section may be based on testimony, affidavits, police reports, or other material, relevant and reliable information, or documentation submitted by the petitioner and other interested parties.

(b) The petitioner is presumed to be a victim of identity theft under this section if a person other than the petitioner is convicted of a criminal offense involving the use of the petitioner's identity or personal information without the petitioner's consent.

(c) The court shall verify the identity of the petitioner. The petitioner shall personally appear before the court and testify under oath.

(12) If the court determines from a preponderance of the evidence that the petitioner is a victim of identity theft, the court shall issue an order:

(a) Declaring that the petitioner is a victim of identity theft;

(b) Describing in general terms the type of personal information and documents involved in the alleged identity theft;

(c) Stating the date of the identity theft, if known;

(d) Stating any known information identifying the person convicted of an offense as stated in paragraph (b) of subsection (11) of this section; and

(e) Making such other orders as are necessary to assist the petitioner in correcting erroneous information that has resulted from the identity theft.

(13) A court may at any time vacate an order issued under this section if the court finds that the petition, or any information submitted in support of the petition, contains a material factual error, material misrepresentation, or fraudulent misrepresentation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) An individual who has been charged with a criminal offense as a result of another person or persons using the identifying information of the individual to commit a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to redact the movant's identifying information in records as provided in this section, including but not limited to arrest records, fingerprints, photographs, index references, or other data, whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge. The motion shall be supported by evidence and the movant's oath that the movant was not the perpetrator of the offenses charged against the movant. The motion is an alternative to any other available remedies.

(2) The motion may be filed at any time following the order of acquittal or dismissal.

(3) (a) Following the filing of the motion, the court may set a date for a hearing.

(b) If the court sets a date for a hearing, it shall notify the following of a reasonable opportunity for a response to the motion:

1. The county or Commonwealth's attorney, as appropriate, or both; and

2. If the criminal charge relates to the abuse or neglect of a child, the Office of General Counsel of the Cabinet for Health and Family Services.

(c) Any hearing on a motion filed pursuant to this section shall be held within thirty (30) days of the filing of the motion.

(4) If the court finds that there are no current charges or proceedings pending in relation to the matter for which the redaction is sought, the court may grant the motion and order the redaction of records in the custody of the court. The court shall order the redaction on a form provided by the Administrative Office of the Courts. The court clerk, Court of Justice, Administrative Office of the Courts, and any other agency of the judicial branch with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to redact records, shall certify to the court within sixty (60) days of the entry of the order that the required action has been completed. The court may make such other orders as are necessary to preserve under seal any evidence for future use by law enforcement in the investigation and prosecution of criminal offenses associated with events surrounding the criminal offense the individual was charged with. All orders enforcing the procedure shall be sealed.

(5) The individual whose record is redacted shall not have to disclose the fact of the redaction or any matter relating thereto on an application for employment, credit, or other type of application.

(6) Inspection of the court records subject to the order may thereafter be permitted by the court only upon a motion by the individual who is the subject of the records or by motion of the county or Commonwealth's attorney and only to those persons named in the motion. The records shall be made available as evidence in the prosecution of the person or persons who used the identifying information of the individual.

(7) KRS 523.070 shall not be construed to apply to statements or testimony made in relation to a motion filed pursuant to this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "agency" means any public agency of the executive branch of the Commonwealth or its subdivisions.

(2) Except as provided in subsection (3) of this section, no agency shall do any of the following:

(a) Collect a Social Security number from an individual unless authorized by law to do so or unless the collection of the Social Security number is otherwise necessary for the performance of that agency's duties and responsibilities as prescribed by law. Social Security numbers collected by an agency shall be relevant to the purpose for which collected and shall not be collected until and unless the need for Social Security numbers has been clearly documented;

(b) Fail, when collecting a Social Security number from an individual, to segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the Social Security number can be more easily redacted pursuant to a valid open records request;

(c) Fail, when collecting a Social Security number from an individual, to provide, at the time of or prior to the actual collection of the Social Security number by that agency, that individual, upon request, with a written statement of the purpose or purposes for which the Social Security number is being collected and used;

(d) Use the Social Security number for any purpose other than the purpose stated pursuant to paragraph (c) of this subsection;

(e) Intentionally communicate or otherwise make available to the general public or a nonaffiliated third party a person's Social Security number;

(f) Print an individual's Social Security number on any card required for the individual to access government services;

(g) Require an individual to transmit the individual's Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted;

(h) Require an individual to use the individual's Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site;

(i) Print an individual's Social Security number on any materials that are mailed to the individual, unless state or federal law requires the Social Security number to be on the document to be mailed; or

(j) Disclose an individual's Social Security number when the party making the disclosure knows or in the exercise of reasonable diligence would have reason to believe that the third party lacks a legitimate purpose for obtaining the consumer's Social Security number.

(3) Subsection (2) of this section does not apply in the following circumstances:

(a) When a Social Security number is included in an application or in documents related to an enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number for the purpose of obtaining a consumer report pursuant to 15 U.S.C. sec. 1681b. A Social Security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened;

(b) To the collection, use, or release of Social Security numbers:

1. For internal verification or administrative purposes;

2. To investigate or prevent fraud;

3. To conduct background checks, as permitted by law;

4. To collect a debt;

5. To undertake a permissible purpose enumerated under or disclosure permitted by the Fair Credit Reporting Act, as amended, 15 U.S.C. sec. 1681 et seq.; or for any purpose set forth in section 502(e) of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6802(e);

6. To locate a person who is due a benefit, such as a pension, insurance, or unclaimed property benefit; or

7. To act pursuant to a court order, warrant, subpoena, or when otherwise required by law;

(c) To a Social Security number that has been redacted;

(d) To Social Security numbers disclosed to another governmental entity or its agents, assignees, employees, or subcontractors if disclosure is necessary for the governmental entity or its agents, assignees, employees, or subcontractors to perform their duties and responsibilities. The receiving governmental entity and its agents, assignees, employees, and subcontractors shall maintain the confidential status of such numbers;

(e) To Social Security numbers disclosed for a public health purpose pursuant to and in compliance with KRS Chapter 194A or any chapters contained in KRS Title XVIII;

(f) To certified copies of vital records issued pursuant to KRS 213.136;

(g) To vital records or the information contained in vital records that is disclosed pursuant to KRS 213.131;

(h) To any document recorded in the official records of the clerk of the county;

(i) To any document filed in the official records of the courts; or

(j) To Social Security numbers disclosed to or by a law enforcement agency for a law enforcement purpose.

(4) (a) No person preparing or filing a document to be recorded or filed in the official records of an agency may include any person's Social Security number, unless:

1. Otherwise expressly required by law;

2. Otherwise expressly required by the agency pursuant to this section;

3. Otherwise expressly required pursuant to an administrative regulation promulgated by the agency;

4. Otherwise expressly required by court order; or

5. The Social Security number is redacted.

(b) Any loan closing instruction that requires the inclusion of a person's Social Security number on a document to be recorded or filed in the official records of an agency shall be void.

(5) The validity of an instrument as between the parties to the instrument is not affected by the inclusion of a Social Security number on a document recorded or filed with an agency. The agency may not reject an instrument presented for recording or filing because the instrument contains an individual's Social Security number.

(6) (a) Any person has the right to request that an agency remove from a copy of an official record placed on the agency's Internet Web site available to the general public the person's Social Security number contained in that official record, unless the agency is specifically required or authorized by federal or state statute to place the Social Security number on the agency's Internet Web site.

(b) The request shall be made in writing, signed by the requester and with the requester's name typed or legibly printed, and delivered in person or by mail, facsimile, or electronic transmission. The request shall identify with specificity the Social Security number to be redacted, the official record that contains the Social Security number, and the location of the Social Security number to be redacted within the official record.

(c) The agency shall have no duty to inquire beyond the written request to verify the identity of a person requesting redaction.

(d) No fee shall be charged for the redaction pursuant to such a request.

(7) An agency shall give notice of the provisions of this section by conspicuously posting signs throughout its offices for public viewing and by conspicuously posting a notice on any Internet Web site used by the agency that is available to the general public.

(8) Any affected person may petition the Franklin Circuit Court for an order directing compliance with this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Electronic mail message" means a message sent to a unique destination that consists of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which such message can be sent or delivered; and

(b) "Identifying information" means specific details that can be used to access a person's financial accounts or to obtain goods or services, including but not limited to such person's Social Security number, driver's license number, bank account number, credit or debit card number, personal identification number, automated or electronic signature, unique biometric data, or account password.

(2) It is a violation of this section to solicit, request, or take any action to induce a person to provide identifying information by means of a Web page, electronic mail message, or otherwise using the Internet, by representing oneself, either directly or by implication, to be another person without the authority or approval of such other person.

(3) Violation of this section is a Class D felony.

(4) In any prosecution for a violation of this section, the Commonwealth is not required to establish, and it is no defense that:

(a) A person other than the defendant who violated this section has not been convicted, apprehended, or identified; or

(b) Some of the acts constituting a violation of this section did not occur in Kentucky or were not a criminal offense or elements of a criminal offense where they did occur.

SECTION 12. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The following persons shall have a cause of action against a person who violates Section 11 of this Act:

(a) Any person who is induced to provide identifying information by means of a Web page, electronic mail message, or otherwise using the Internet, in violation of Section 11 of this Act;

(b) A person engaged in the business of providing Internet access service to the public whose service was used in a violation of Section 11 of this Act;

(c) An owner of a Web page or trademark whose Web page or trademark was used in a violation of Section 11 of this Act; and

(d) The Attorney General.

(2) A person bringing an action under this section may:

(a) Seek injunctive relief to restrain the violator from continuing the violation; and

(b) Recover damages in an amount equal to the greater of:

1. Actual damages arising from the violation; or

2. Twenty-five thousand dollars ($25,000) for each separate violation.

(3) The court may increase an award of damages in an action brought under this section to an amount not to exceed three (3) times the amount allowed under paragraph (b) of subsection (2) of this section, if the defendant has engaged in a pattern or practice of violating Section 11 of this Act.

(4) A plaintiff who prevails in an action filed under this section is entitled to recover reasonable attorney's fees and court costs.

(5) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts or practices declared unlawful by Section 11 of this Act.

(6) The statute of limitations for cases under the provisions of this section shall be the later of five (5) years from the date of the discovery of the violation of Section 11 of this Act, or five (5) years from the date of discovery of the identity of the perpetrator of the violation.

(7) An interactive computer service provider shall not be held liable or found in violation of Section 11 of this Act for identifying, removing, or disabling access to an Internet Web page or other on-line location that such provider believes in good faith is being used to engage in a violation of this Section 11 of this Act.

Section 13. KRS 365.720 is amended to read as follows:

As used in KRS 367.720 to 365.730, unless the context requires otherwise:

(1) ***"Agency" means any public agency of the executive branch of the Commonwealth or its subdivisions, unless the context requires otherwise;***

(2) "Business" means a sole proprietorship, partnership, corporation, limited liability company, association, or other entity, however organized and whether or not organized to operate at a profit. "Business" shall not mean a bank as defined in 12 U.S.C. sec. 1813(a) or Subtitles 1, 2, and 3 of KRS Chapter 286, a credit union as defined in 12 U.S.C. sec. 1752 or Subtitle 6 of KRS Chapter 286, a savings association as defined in 12 U.S.C. sec. 1813(b), or an association as defined in Subtitle 5 of KRS Chapter 286. The term includes an entity that destroys records;

[~~(2) "Customer" means an individual who provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service for business;~~]

(3) "Individual" means a natural person;

(4) "Personally identifiable information" means data capable of being associated with a particular ***person***[~~customer~~] through one (1) or more identifiers, including but not limited to ***the person's***[~~a customer's~~] name, address, telephone number, electronic mail address, fingerprints, photographs or computerized image, Social Security number, passport number, driver identification number, personal identification card number or code, date of birth, medical information, financial information, tax information, and disability information; and

(5) "Records" means any material, regardless of the physical form, on which information is recorded or preserved by any means, including in written or spoken words, graphically depicted, printed, or electromagnetically transmitted.

Section 14. KRS 365.725 is amended to read as follows:

When a business ***or agency*** disposes of, other than by storage, any[~~ customer's~~] records[~~ that are not required to be retained~~], the business ***or agency*** shall take reasonable steps to destroy, or arrange for the destruction of, that portion of the records containing personally identifiable information by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or indecipherable through any means.

Section 15. KRS 15.334 is amended to read as follows:

(1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:

(a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;

(b) The dynamics of domestic violence, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape;

(c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome;[~~ and~~]

(d) Identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin***; and***

(e) Theft of identity and criminal offenses involving identity theft or misuse of another person's identity or personal information.

(2) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.

(3) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses.

(4) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

Section 16. KRS 411.210 is amended to read as follows:

(1) In addition to pursuing any other remedy, ***any person whose identity or personal information was used without his or her consent in violation of KRS 514.160 or any other criminal statute***[~~anyone who is a victim under KRS 434.872, 434.874, 514.160, or 514.170,~~] shall have a cause of action, either where the ***person***[~~victim~~] resides or the defendant resides, for compensatory and punitive damages against ***the person who committed the crime***[~~anyone who violates KRS 434.872, 434.874, 514.160, or 514.170~~] and, if successful, shall be awarded reasonable costs and attorneys' fees.

(2) The statute of limitations for cases under the provisions of this section shall be ***the later of*** five (5) years from the date of the discovery ***that the person's identity or personal information was used without his or her consent in violation of KRS 514.160 or any other criminal statute, or five (5) years from the date of discovery of the identity of the person who committed the crime***[~~of the violation of KRS 434.872, 434.874, 514.160, or 514.170~~].

Section 17. KRS 514.160 is amended to read as follows:

(1) A person is guilty of the theft of the identity of another when he or she knowingly possesses or uses any current or former identifying information of the other person***, whether alive or deceased,*** or family member or ancestor of the other person, such as that person's or family member's or ancestor's name, address, telephone number, electronic mail address, Social Security number, driver's license number, ***credit card number, debit card number, bank or other financial institution account numbers, investment account number, identification card number, passport number, electronic identification number, digital signature,*** birth date, personal identification number or code, and any other information which could be used to identify the person, including unique biometric data, with the intent to represent that he or she is the other person for the purpose of:

(a) Depriving the other person of property;

(b) Obtaining benefits or property to which he or she would otherwise not be entitled;

(c) Making financial or credit transactions using the other person's identity;

(d) Avoiding detection; or

(e) Commercial or political benefit.

(2) Theft of identity is a Class D felony. If the person violating this section is a business that has violated this section on more than one (1) occasion, then that person also violates the Consumer Protection Act, KRS 367.110 to 367.300.

(3) This section shall not apply when a person obtains the identity of another to misrepresent his or her age for the purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.

(4)[~~ This section does not apply to credit or debit card fraud under KRS 434.550 to 434.730.~~

~~(5)~~] Where the offense consists of theft by obtaining or trafficking in the personal identity of another person, the venue of the prosecution may be in either the county where the offense was committed or the county where the other person resides.

(5)[~~(6)~~] A person found guilty of violating any provisions of this section shall forfeit any lawful claim to the identifying information, property, or other realized benefit of the other person as a result of such violation.

Section 18. KRS 525.080 is amended to read as follows:

(1) A person is guilty of harassing communications when with intent to harass, annoy***,*** or alarm another person***, whether using his or her own or another person's identity,*** he ***or she***:

(a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail***,*** or any other form of written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication; or

(b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

Section 19. Sections 2 and 10 of this Act take effect on July 1, 2008.

The Committee Substitute to **HB 7** is as follows:

HB 7, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context requires otherwise:

(1) "Agency" means any public agency of the executive branch of the Commonwealth of Kentucky or its subdivisions, unless the context requires otherwise;

(2) "Business" means a sole proprietorship, partnership, company, corporation, firm, association, or other group, however organized and whether or not organized to operate at a profit. "Business" shall not include any government or governmental subdivision or agency;

(3) "Consumer" means an individual who is a resident of Kentucky, or his or her legal guardian, or his or her attorney-in-fact specifically appointed for the exercise of rights provided in Sections 1 to 5 of this Act;

(4) "Encrypt" means use of an algorithmic process to transform data into a form in which the data are rendered unreadable or unusable without use of a confidential process or key;

(5) "Person" means any individual, partnership, corporation, company, trust, estate, cooperative, association, or other entity, but does not include a government or governmental subdivision or agency;

(6) "Personal information" means an individual's first name or first initial and last name, or birth date, in combination with any of the following identifying information of the individual:

(a) Account number;

(b) Code;

(c) Password;

(d) Social Security number;

(e) Tax identification number;

(f) Driver's license number;

(g) Personal identification number;

(h) Credit card number;

(i) Debit card number; or

(j) Medical information.

"Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records;

(7) "Records" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics;

(8) "Redact" means rendering data so that it is unreadable or is truncated so that no more than the last four (4) digits of the identification number are accessible as part of the data; and

(9) "Security breach" means unauthorized acquisition, distribution, disclosure, or release of unencrypted or unredacted records or data that compromises the security, confidentiality, or integrity of personal information. "Security breach" also means unauthorized acquisition, distribution, disclosure, or release of encrypted records or data containing personal information along with the confidential process or key to unencrypt the records or data. Good-faith acquisition of personal information by an employee or agent of the business or agency for the purposes of the business or agency is not a security breach, if the personal information is not used for a purpose unrelated to the business or agency or subject to further unauthorized disclosure.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, it shall be unlawful for a business to do any of the following:

(a) Intentionally communicate or otherwise make available to the general public or a nonaffiliated third party a consumer's Social Security number;

(b) Print a consumer's Social Security number on any card required for the consumer to access products or services provided by the business;

(c) Require a consumer to transmit his or her Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted;

(d) Require a consumer to use his or her Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site;

(e) Print a consumer's Social Security number on any materials that are mailed to the consumer, unless state or federal law requires the Social Security number to be on the document to be mailed; or

(f) Disclose a consumer's Social Security number when the party making the disclosure knows or in the exercise of reasonable diligence would have reason to believe that the third party lacks a legitimate purpose for obtaining the consumer's Social Security number.

(2) Subsection (1) of this section shall not apply in the following instances:

(a) When a Social Security number is included in an application or in documents related to an enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number for the purpose of obtaining a consumer report pursuant to 15 U.S.C. sec. 1681b. A Social Security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened;

(b) To the collection, use, or release of a Social Security number:

1. For internal verification or administrative purposes;

2. To investigate or prevent fraud;

3. To conduct background checks, as permitted by law;

4. To collect a debt;

5. To undertake a permissible purpose enumerated under or disclosure permitted by the Fair Credit Reporting Act, as amended, 15 U.S.C. sec. 1681 et seq.; or for any purpose set forth in section 502(e) of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6802(e);

6. To locate a person who is due a benefit, such as a pension, insurance, or unclaimed property benefit;

7. To act pursuant to a court order, warrant, subpoena, or when otherwise required by law; or

8. To provide the Social Security number to a federal, state, or local government entity, including a law enforcement agency or court, or their agents or assigns; and

(c) To a Social Security number that has been redacted.

(3) Any waiver of the provisions of this section is contrary to public policy and is void and unenforceable.

(4) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts or practices declared unlawful by this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any business or agency that conducts business in Kentucky, and owns or licenses data that include personal information, to fail to notify a resident of Kentucky of a security breach of that resident's personal information, following discovery or notification of an occurrence of a security breach, or when the business or agency has a reasonable belief that a security breach has occurred. The notification shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) of this section, or any measures necessary to determine the scope of the security breach and restore the reasonable integrity of the data system.

(2) Any business or agency that maintains data that include personal information that the business or agency does not own shall notify the owner or licensee of the information of any security breach of the information immediately following discovery.

(3) The notice required by this section shall be delayed if the business or agency receives a written request from a law enforcement agency to delay the notice because the notice may impede a criminal investigation. The notice required by this section shall be provided without unreasonable delay after the law enforcement agency communicates to the business or agency its determination that notice will no longer impede the investigation. The request to delay the notice and the communication to end the delay shall be in writing, or the business or agency shall document the request and communication contemporaneously in writing, and shall include the name of the law enforcement officer and law enforcement agency making the request.

(4) The notice required by subsection (1) of this section shall be clear and conspicuous. The notice shall include a description of the following:

(a) The incident in general terms;

(b) The type of personal information that was subject to the unauthorized acquisition;

(c) The general acts of the business or agency to protect the personal information from further unauthorized acquisition;

(d) A telephone number that the consumer may call for further information and assistance, if one exists; and

(e) A statement that the consumer should remain vigilant by reviewing account statements and monitoring free credit reports.

(5) For purposes of this section, notice to affected consumers shall be provided by at least one (1) of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. sec. 7001; or

(c) Substitute notice, if the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or the affected class of subject persons to be notified exceeds five hundred thousand (500,000), or that the business or agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

1. E-mail notice when the business or agency has an e-mail address for the subject persons;

2. Conspicuous posting of the notice on the Web site page of the business or agency , if the business or agency maintains one; and

3. Notification to major statewide media.

(6) Any business or agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information that is substantially consistent with the requirements of this section shall be deemed to be in compliance with the notification requirements of this section if the business or agency notifies subject persons in accordance with its notification procedures in the event of a security breach.

(7) Any waiver of the provisions of this section is contrary to public policy and is void and unenforceable.

(8) This section does not apply to the following:

(a) Any bank or financial institution that is subject to and in compliance with the privacy and security provisions of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6801 et seq;

(b) Any person that is subject to and in compliance with the standards for privacy of individually identifiable health information and the security standards for the protection of electronic health information of the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations adopted thereto, as amended; and

(c) Any consumer reporting agency that is subject to and in compliance with the privacy and security provisions of the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681 et seq., as amended.

(9) In the event that a business or agency provides notice to more than one thousand (1,000) consumers at one (1) time pursuant to this section, the business or agency shall notify, without unreasonable delay, the Office of Consumer Protection of the Office of the Attorney General and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. sec. 1681a(p), of the timing, distribution, and content of the notice.

(10) The business or agency providing a notice pursuant to this section shall cooperate with reasonable requests from the Office of Consumer Protection of the Office of the Attorney General, consumer reporting agencies, or recipients of the notice, to verify the authenticity of the notice.

(11) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts or practices declared unlawful by this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) (a) It shall be unlawful for any business or agency that conducts business in Kentucky and maintains or otherwise possesses personal information of a resident of Kentucky, regardless of the form in which the personal information is maintained, to fail to implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect and safeguard against security breaches.

(b) A business may comply with the requirements of this subsection if the actions of the business conform to the requirements for entities subject to the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6801 et seq., for safeguarding customer information.

(2) This section does not apply to the following:

(a) Any bank or financial institution that is subject to and in compliance with the privacy and security provision of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6801 et seq;

(b) Any person that is subject to and in compliance with the standards for privacy of individually identifiable health information and the security standards for the protection of electronic health information of the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations adopted thereto, as amended; and

(c) Any consumer reporting agency that is subject to and in compliance with the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681 et seq., as amended.

(3) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990

shall apply with equal force and effect to acts or practices declared unlawful by this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The Attorney General may promulgate administrative regulations necessary for the proper administration and enforcement of Sections 1 to 5 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 5 of this Act limits the power of any agency of the Commonwealth of Kentucky to enforce criminal or civil provisions of any chapter of the Kentucky Revised Statutes or the right of any person to bring civil actions granted by any chapter of the Kentucky Revised Statutes or common law and based upon conduct prohibited herein, and nothing in this chapter limits the power of the Commonwealth of Kentucky to punish any person for any conduct which constitutes a criminal offense.

(2) The remedies and penalties provided in Sections 1 to 5 of this Act shall be in addition to any other remedies or penalties for any conduct provided for by common law or statute.

(3) The Attorney General may bring a civil action regarding a violation of Sections 1 to 5 of this Act directly in the Franklin Circuit Court, or in the Circuit Court of any county in which the unlawful conduct occurred or in which an affected consumer resides.

SECTION 7. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A person who has learned or reasonably suspects that his or her identity or personal information has been used, without his or her consent, in violation of KRS 514.160 or any other criminal statute, may make a complaint to any office of the Kentucky State Police, the local law enforcement agency where jurisdiction may lie for investigation and prosecution of the criminal offense, or the local law enforcement agency that has jurisdiction over his or her actual residence.

(2) Regardless of where jurisdiction may lie for investigation and prosecution of the offense, the office of the Kentucky State Police or the local law enforcement agency shall take the complaint, and provide the complainant with a copy of the report form used to take the complaint.

SECTION 8. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "identity theft" means the use of an individual's identity or personal information, without that individual's consent, in violation of KRS 514.160 or any other criminal statute.

(2) An individual who reasonably believes that he or she is a victim of identity theft may petition the Circuit Court, in a civil action, for an expedited determination that he or she is a victim of identity theft.

(3) The petition may be filed in the Circuit Court either where the petitioner resides or where related proceedings have been filed.

(4) A petition filed under this section shall be verified by the petitioner and include at least the following:

(a) A description of the facts and circumstances relating to the identity theft;

(b) A statement of the nature of the relief sought by the petitioner;

(c) A copy of the related police report, if any; and

(d) If known, the case number and court of each related proceeding, if any, and the status thereof.

(5) The petitioner shall certify that he or she has served a copy of the petition upon any opposing party or prosecutor for a related proceeding identified in the petition.

(6) A petition may be filed under this section regardless of whether the petitioner is able to identify the person or persons who allegedly engaged in the identity theft.

(7) The court fee for filing a petition under this section shall be the same as the filing fee for small claims filed in the District Court.

(8) The clerk of the court shall provide a copy of the petition to the Commonwealth's attorney and county attorney for the county in which the petition is filed, within three (3) business days of the date the petition is filed.

(9) The Commonwealth's attorney or county attorney, or any party or prosecutor for a related proceeding identified in the petition, may respond to the petition within twenty (20) business days of the date the petition is filed, and may participate in and introduce evidence at a hearing on the petition.

(10) A hearing on a petition filed under this section shall be held within thirty (30) business days of the date the petition is filed.

(11) (a) A judicial determination made pursuant to this section may be based on testimony, affidavits, police reports, or other material, relevant and reliable information, or documentation submitted by the petitioner and other interested parties.

(b) The petitioner is presumed to be a victim of identity theft under this section if a person other than the petitioner is convicted of a criminal offense involving the use of the petitioner's identity or personal information without the petitioner's consent.

(c) The court shall verify the identity of the petitioner. The petitioner shall personally appear before the court and testify under oath.

(12) If the court determines from a preponderance of the evidence that the petitioner is a victim of identity theft, the court shall issue an order:

(a) Declaring that the petitioner is a victim of identity theft;

(b) Describing in general terms the type of personal information and documents involved in the alleged identity theft;

(c) Stating the date of the identity theft, if known;

(d) Stating any known information identifying the person convicted of an offense as stated in paragraph (b) of subsection (11) of this section; and

(e) Making such other orders as are necessary to assist the petitioner in correcting erroneous information that has resulted from the identity theft.

(13) A court may at any time vacate an order issued under this section if the court finds that the petition, or any information submitted in support of the petition, contains a material factual error, material misrepresentation, or fraudulent misrepresentation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) An individual who has been charged with a criminal offense as a result of another person or persons using the identifying information of the individual to commit a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to redact the movant's identifying information in records as provided in this section, including but not limited to arrest records, fingerprints, photographs, index references, or other data, whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge. The motion shall be supported by evidence and the movant's oath that the movant was not the perpetrator of the offenses charged against the movant. The motion is an alternative to any other available remedies.

(2) The motion may be filed at any time following the order of acquittal or dismissal.

(3) (a) Following the filing of the motion, the court may set a date for a hearing.

(b) If the court sets a date for a hearing, it shall notify the following of a reasonable opportunity for a response to the motion:

1. The county or Commonwealth's attorney, as appropriate, or both; and

2. If the criminal charge relates to the abuse or neglect of a child, the Office of General Counsel of the Cabinet for Health and Family Services.

(c) Any hearing on a motion filed pursuant to this section shall be held within thirty (30) days of the filing of the motion.

(4) If the court finds that there are no current charges or proceedings pending in relation to the matter for which the redaction is sought, the court may grant the motion and order the redaction of records in the custody of the court. The court shall order the redaction on a form provided by the Administrative Office of the Courts. The court clerk, Court of Justice, Administrative Office of the Courts, and any other agency of the judicial branch with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to redact records, shall certify to the court within sixty (60) days of the entry of the order that the required action has been completed. The court may make such other orders as are necessary to preserve under seal any evidence for future use by law enforcement in the investigation and prosecution of criminal offenses associated with events surrounding the criminal offense the individual was charged with. All orders enforcing the procedure shall be sealed.

(5) The individual whose record is redacted shall not have to disclose the fact of the redaction or any matter relating thereto on an application for employment, credit, or other type of application.

(6) Inspection of the court records subject to the order may thereafter be permitted by the court only upon a motion by the individual who is the subject of the records or by motion of the county or Commonwealth's attorney and only to those persons named in the motion. The records shall be made available as evidence in the prosecution of the person or persons who used the identifying information of the individual.

(7) KRS 523.070 shall not be construed to apply to statements or testimony made in relation to a motion filed pursuant to this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "agency" means any public agency of the executive branch of the Commonwealth or its subdivisions.

(2) Except as provided in subsection (3) of this section, no agency shall do any of the following:

(a) Collect a Social Security number from an individual unless authorized by law to do so or unless the collection

of the Social Security number is otherwise necessary for the performance of that agency's duties and responsibilities as prescribed by law. Social Security numbers collected by an agency shall be relevant to the purpose for which collected and shall not be collected until and unless the need for Social Security numbers has been clearly documented;

(b) Fail, when collecting a Social Security number from an individual, to segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the Social Security number can be more easily redacted pursuant to a valid open records request;

(c) Fail, when collecting a Social Security number from an individual, to provide, at the time of or prior to the actual collection of the Social Security number by that agency, that individual, upon request, with a written statement of the purpose or purposes for which the Social Security number is being collected and used;

(d) Use the Social Security number for any purpose other than the purpose stated pursuant to paragraph (c) of this subsection;

(e) Intentionally communicate or otherwise make available to the general public or a nonaffiliated third party a person's Social Security number;

(f) Print an individual's Social Security number on any card required for the individual to access government services;

(g) Require an individual to transmit the individual's Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted;

(h) Require an individual to use the individual's Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site;

(i) Print an individual's Social Security number on any materials that are mailed to the individual, unless state or federal law requires the Social Security number to be on the document to be mailed; or

(j) Disclose an individual's Social Security number when the party making the disclosure knows or in the exercise of reasonable diligence would have reason to believe that the third party lacks a legitimate purpose for obtaining the consumer's Social Security number.

(3) Subsection (2) of this section does not apply in the following circumstances:

(a) When a Social Security number is included in an application or in documents related to an enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number for the purpose of obtaining a consumer report pursuant to 15 U.S.C. sec. 1681b. A Social Security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened;

(b) To the collection, use, or release of Social Security numbers:

1. For internal verification or administrative purposes;

2. To investigate or prevent fraud;

3. To conduct background checks, as permitted by law;

4. To collect a debt;

5. To undertake a permissible purpose enumerated under or disclosure permitted by the Fair Credit Reporting Act, as amended, 15 U.S.C. sec. 1681 et seq.; or for any purpose set forth in section 502(e) of the Gramm-Leach-Bliley Act, as amended, 15 U.S.C. sec. 6802(e);

6. To locate a person who is due a benefit, such as a pension, insurance, or unclaimed property benefit; or

7. To act pursuant to a court order, warrant, subpoena, or when otherwise required by law;

(c) To a Social Security number that has been redacted;

(d) To Social Security numbers disclosed to another governmental entity or its agents, assignees, employees, or subcontractors if disclosure is necessary for the governmental entity or its agents, assignees, employees, or subcontractors to perform their duties and responsibilities. The receiving governmental entity and its agents, assignees, employees, and subcontractors shall maintain the confidential status of such numbers;

(e) To Social Security numbers disclosed for a public health purpose pursuant to and in compliance with KRS Chapter 194A or any chapters contained in KRS Title XVIII;

(f) To certified copies of vital records issued pursuant to KRS 213.136;

(g) To vital records or the information contained in vital records that is disclosed pursuant to KRS 213.131;

(h) To any document recorded in the official records of the clerk of the county;

(i) To any document filed in the official records of the courts; or

(j) To Social Security numbers disclosed to or by a law enforcement agency for a law enforcement purpose.

(4) (a) No person preparing or filing a document to be recorded or filed in the official records of an agency may include any person's Social Security number, unless:

1. Otherwise expressly required by law;

2. Otherwise expressly required by the agency pursuant to this section;

3. Otherwise expressly required pursuant to an administrative regulation promulgated by the agency;

4. Otherwise expressly required by court order; or

5. The Social Security number is redacted.

(b) Any loan closing instruction that requires the inclusion of a person's Social Security number on a document to be recorded or filed in the official records of an agency shall be void.

(5) The validity of an instrument as between the parties to the instrument is not affected by the inclusion of a Social Security number on a document recorded or filed with an agency. The agency may not reject an instrument presented for recording or filing because the instrument contains an individual's Social Security number.

(6) (a) Any person has the right to request that an agency remove from a copy of an official record placed on the agency's Internet Web site available to the general public the person's Social Security number contained in that official record, unless the agency is specifically required or authorized by federal or state statute to place the Social Security number on the agency's Internet Web site.

(b) The request shall be made in writing, signed by the requester and with the requester's name typed or legibly printed, and delivered in person or by mail, facsimile, or electronic transmission. The request shall identify with specificity the Social Security number to be redacted, the official record that contains the Social Security number, and the location of the Social Security number to be redacted within the official record.

(c) The agency shall have no duty to inquire beyond the written request to verify the identity of a person requesting redaction.

(d) No fee shall be charged for the redaction pursuant to such a request.

(7) An agency shall give notice of the provisions of this section by conspicuously posting signs throughout its offices for public viewing and by conspicuously posting a notice on any Internet Web site used by the agency that is available to the general public.

(8) Any affected person may petition the Franklin Circuit Court for an order directing compliance with this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Electronic mail message" means a message sent to a unique destination that consists of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which such message can be sent or delivered; and

(b) "Identifying information" means specific details that can be used to access a person's financial accounts or to obtain goods or services, including but not limited to such person's Social Security number, driver's license number, bank account number, credit or debit card number, personal identification number, automated or electronic signature, unique biometric data, or account password.

(2) It is a violation of this section to solicit, request, or take any action to induce a person to provide identifying information by means of a Web page, electronic mail message, or otherwise using the Internet, by representing oneself, either directly or by implication, to be another person without the authority or approval of such other person.

(3) Violation of this section is a Class D felony.

(4) In any prosecution for a violation of this section, the Commonwealth is not required to establish, and it is no defense that:

(a) A person other than the defendant who violated this section has not been convicted, apprehended, or identified; or

(b) Some of the acts constituting a violation of this section did not occur in Kentucky or were not a criminal offense or elements of a criminal offense where they did occur.

SECTION 12. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The following persons shall have a cause of action against a person who violates Section 11 of this Act:

(a) Any person who is induced to provide identifying information by means of a Web page, electronic mail message, or otherwise using the Internet, in violation of Section 11 of this Act;

(b) A person engaged in the business of providing Internet access service to the public whose service was used in a violation of Section 11 of this Act;

(c) An owner of a Web page or trademark whose Web page or trademark was used in a violation of Section 11 of this Act; and

(d) The Attorney General.

(2) A person bringing an action under this section may:

(a) Seek injunctive relief to restrain the violator from continuing the violation; and

(b) Recover damages in an amount equal to the greater of:

1. Actual damages arising from the violation; or

2. Twenty-five thousand dollars ($25,000) for each separate violation.

(3) The court may increase an award of damages in an action brought under this section to an amount not to exceed three (3) times the amount allowed under paragraph (b) of subsection (2) of this section, if the defendant has engaged in a pattern or practice of violating Section 11 of this Act.

(4) A plaintiff who prevails in an action filed under this section is entitled to recover reasonable attorney's fees and court costs.

(5) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts or practices declared unlawful by Section 11 of this Act.

(6) The statute of limitations for cases under the provisions of this section shall be the later of five (5) years from the date of the discovery of the violation of Section 11 of this Act, or five (5) years from the date of discovery of the identity of the perpetrator of the violation.

(7) An interactive computer service provider shall not be held liable or found in violation of Section 11 of this Act for identifying, removing, or disabling access to an Internet Web page or other on-line location that such provider believes in good faith is being used to engage in a violation of this Section 11 of this Act.

Section 13. KRS 365.720 is amended to read as follows:

As used in KRS 367.720 to 365.730, unless the context requires otherwise:

(1) ***"Agency" means any public agency of the executive branch of the Commonwealth or its subdivisions, unless the context requires otherwise;***

(2) "Business" means a sole proprietorship, partnership, corporation, limited liability company, association, or other entity, however organized and whether or not organized to operate at a profit. "Business" shall not mean a bank as defined in 12 U.S.C. sec. 1813(a) or Subtitles 1, 2, and 3 of KRS Chapter 286, a credit union as defined in 12 U.S.C. sec. 1752 or Subtitle 6 of KRS Chapter 286, a savings association as defined in 12 U.S.C. sec. 1813(b), or an association as defined in Subtitle 5 of KRS Chapter 286. The term includes an entity that destroys records;

[~~(2) "Customer" means an individual who provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service for business;~~]

(3) "Individual" means a natural person;

(4) "Personally identifiable information" means data capable of being associated with a particular ***person***[~~customer~~] through one (1) or more identifiers, including but not limited to ***the person's***[~~a customer's~~] name, address, telephone number, electronic mail address, fingerprints, photographs or computerized image, Social Security number, passport number, driver identification number, personal identification card number or code, date of birth, medical information, financial information, tax information, and disability information; and

(5) "Records" means any material, regardless of the physical form, on which information is recorded or preserved by any means, including in written or spoken words, graphically depicted, printed, or electromagnetically transmitted.

Section 14. KRS 365.725 is amended to read as follows:

When a business ***or agency*** disposes of, other than by storage, any[~~ customer's~~] records[~~ that are not required to be retained~~], the business ***or agency*** shall take reasonable steps to destroy, or arrange for the destruction of, that portion of the records containing personally identifiable information by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or indecipherable through any means.

Section 15. KRS 15.334 is amended to read as follows:

(1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:

(a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;

(b) The dynamics of domestic violence, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape;

(c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome;[~~ and~~]

(d) Identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin***; and***

(e) Theft of identity and criminal offenses involving identity theft or misuse of another person's identity or personal information.

(2) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.

(3) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses.

(4) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

Section 16. KRS 411.210 is amended to read as follows:

(1) In addition to pursuing any other remedy, ***any person whose identity or personal information was used without his or her consent in violation of KRS 514.160 or any other criminal statute***[~~anyone who is a victim under KRS 434.872, 434.874, 514.160, or 514.170,~~] shall have a cause of action, either where the ***person***[~~victim~~] resides or the defendant resides, for compensatory and punitive damages against ***the person who committed the crime***[~~anyone who violates KRS 434.872, 434.874, 514.160, or 514.170~~] and, if successful, shall be awarded reasonable costs and attorneys' fees.

(2) The statute of limitations for cases under the provisions of this section shall be ***the later of*** five (5) years from the date of the discovery ***that the person's identity or personal information was used without his or her consent in violation of KRS 514.160 or any other criminal statute, or five (5) years from the date of discovery of the identity of the person who committed the crime***[~~of the violation of KRS 434.872, 434.874, 514.160, or 514.170~~].

Section 17. KRS 514.160 is amended to read as follows:

(1) A person is guilty of the theft of the identity of another when he or she knowingly possesses or uses any current or former identifying information of the other person***, whether alive or deceased,*** or family member or ancestor of the other person, such as that person's or family member's or ancestor's name, address, telephone number, electronic mail address, Social Security number, driver's license number, ***credit card number, debit card number, bank or other financial institution account numbers, investment account number, identification card number, passport number, electronic identification number, digital signature,*** birth date, personal identification number or code, and any other information which could be used to identify the person, including unique biometric data, with the intent to represent that he or she is the other person for the purpose of:

- (a) Depriving the other person of property;
- (b) Obtaining benefits or property to which he or she would otherwise not be entitled;
- (c) Making financial or credit transactions using the other person's identity;
- (d) Avoiding detection; or
- (e) Commercial or political benefit.

(2) Theft of identity is a Class D felony. If the person violating this section is a business that has violated this section on more than one (1) occasion, then that person also violates the Consumer Protection Act, KRS 367.110 to 367.300.

(3) This section shall not apply when a person obtains the identity of another to misrepresent his or her age for the purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.

(4)[~~This section does not apply to credit or debit card fraud under KRS 434.550 to 434.730.~~

~~(5)~~] Where the offense consists of theft by obtaining or trafficking in the personal identity of another person, the venue of the prosecution may be in either the county where the offense was committed or the county where the other person resides.

(5)[~~(6)~~] A person found guilty of violating any provisions of this section shall forfeit any lawful claim to the identifying information, property, or other realized benefit of the other person as a result of such violation.

Section 18. KRS 525.080 is amended to read as follows:

(1) A person is guilty of harassing communications when with intent to harass, annoy***,*** or alarm another person***, whether using his or her own or another person's identity,*** he ***or she***:

- (a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail***,*** or any other form of written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication; or
- (b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

Section 19. Sections 2 and 10 of this Act take effect on July 1, 2008.

HB 82, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.250 is amended to read as follows:

(1) Every dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, or collector of or dealer in articles found in ashes, garbage, or other refuse, whether such dealers, collectors or vendors have established places of business or operate a business of an itinerant nature, shall keep a register, which shall contain the name of the persons from whom any ***ferrous or nonferrous metal or material containing ferrous or nonferrous metal***[~~copper wire or cable~~] is purchased, whatever may be the condition[~~ or length of such copper wire or cable~~], the residence or place of business of such persons, and a full description of each purchase, including the quantity by weight thereof. Each of such dealers, collectors, or vendors shall permit any peace officer to inspect the register at any reasonable time and shall report to the sheriff of the county in which any purchase is made and to the sheriff of the county in which his business is located all of such purchases within twenty-four (24) hours thereafter; the report shall contain all of the information required to be maintained in the register provided for herein.

(2) Failure to maintain the register or to report to the sheriff as required in subsection (1) ***of this section*** shall be prima facie evidence that the person receiving ***the ferrous or nonferrous metal or material containing ferrous or nonferrous metal***[~~copper wire or cable~~] not registered or reported, received it knowing it to be stolen in violation of KRS 514.110.

(3) In the event the purchase is made or the business is located in a city,[~~ of the first or second class~~] the reports required hereby shall be made to the police departments of such cities instead of the respective sheriffs.

Section 2. KRS 365.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 365.015 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days, or both, and each day that the violation continues shall constitute a separate offense.

(2) Any person who violates any of the provisions of KRS 365.020 to 365.050 shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not more than six (6) months, or both. Any person who, as agent of any person or as director, officer or agent of any corporation assists or aids in a violation of any of such provisions by the person or corporation for which he is director, officer or agent, shall be responsible therefor equally with such person or corporation, and in a prosecution brought by the local Commonwealth attorney against him under this subsection it shall be sufficient to allege and prove the unlawful intent of the person or corporation for whom he acts.

(3) Any person who violates any of the provisions of KRS 365.100 shall be fined not less than two hundred dollars ($200) for each offense.

(4) Any person who violates any of the provisions of KRS 365.110 shall be fined not less than ten dollars ($10) nor more than fifty dollars ($50) for each offense.

(5) Any agent or employee of a corporation or any other person who violates any of the provisions of subsection (2) of KRS 365.220 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and each day's continuance of the violation shall constitute a separate offense.

(6) A conviction of a corporation of violating any of the provisions of KRS 365.210 or 365.220 shall operate to forfeit its charter or right to do business in this state. Proceedings may be instituted by the Commonwealth's attorney in any district in this state to forfeit the charter or right to do business in this state of any corporation violating any of the provisions of KRS 365.210 or 365.220, and to subject the corporation charged, if found guilty, to the penalty imposed in subsection (7) of this section.

(7) Any company that violates any of the provisions of KRS 365.230 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), and if it is a corporation it shall, upon conviction, forfeit its charter.

(8) Failure to maintain the register or to make the report to the sheriff ***or police department*** as required by KRS 365.250 shall be a misdemeanor punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and shall be prima facie evidence that such dealer, collector or vendor received the used ***ferrous or nonferrous metal or material containing ferrous or nonferrous metal***[~~copper wire or cable~~] not registered or reported, knowing it to be stolen in violation of KRS 514.110.

(9) Any person or entity that transacts a transient business as defined in KRS 365.650 without first having obtained a permit in accordance with the provisions of KRS 365.660, 365.665, 365.680 or 365.685 or who knowingly advertises, offers for sale, or sells any goods, wares or merchandise in violation of the provisions of KRS 365.650 to 365.695, is guilty of a misdemeanor and shall, upon conviction, be fined not more than five hundred dollars ($500) or shall be imprisoned in the county jail for not more than six (6) months, or both.

The Committee Substitute to **HB 82** is as follows:

HB 82, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.250 is amended to read as follows:

(1) Every dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, or collector of or dealer in articles found in ashes, garbage or other refuse, whether such dealers, collectors or vendors have established places of business or operate a business of an itinerant nature, shall keep a register, which shall contain the name of the persons from whom any ***copper metal,*** copper wire, or ***copper*** cable is purchased, whatever may be the condition,~~[or]~~ length***, or weight*** of such ***copper metal,*** copper wire, or ***copper*** cable, the residence or place of business of such persons and a full description of each purchase including the quantity by weight thereof. Each of such dealers, collectors or vendors shall permit any peace officer to inspect the register at any reasonable time***. Each of such dealers, collectors or vendors shall make a report containing the information required to be maintained in the register provided in this subsection in person, in writing, or by electronic means within twenty-four (24) hours of the transaction to:***

(a) The sheriff of the county in which the purchase was made and the sheriff of the county in which the business is located; and

(b) When the purchase was made in a city, county, urban-county, charter county, or consolidated local government, to the police department of the city, urban-county, charter county or consolidated local government in which the purchase was made to the police department of the city, county, urban-county, charter county, or consolidated local government in which the business is located, unless there is no police department in that jurisdiction~~[and shall report to the sheriff of the county in which any purchase is made and to the sheriff of the county in which his business is located all of such purchases within twenty four (24) hours thereafter; the report shall contain all of the information required to be maintained in the register provided for herein]~~.

(2) Failure to maintain the register or to report to the sheriff ***and police department*** as required in subsection (1) ***of this section*** shall be prima facie evidence that the person receiving ***the copper metal,*** copper wire, or ***copper*** cable not registered or reported, received it knowing it to be stolen in violation of KRS 514.110.

~~[(3) In the event the purchase is made or the business is located in a city of the first or second class the reports required hereby shall be made to the police departments of such cities instead of the respective sheriffs.]~~

Section 2. KRS 365.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 365.015 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days, or both, and each day that the violation continues shall constitute a separate offense.

(2) Any person who violates any of the provisions of KRS 365.020 to 365.050 shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not more than six (6) months, or both. Any person who, as agent of any person or as director, officer or agent of any corporation assists or aids in a violation of any of such provisions by the person or corporation for which he is director, officer or agent, shall be responsible therefor equally with such person or corporation, and in a prosecution brought by the local Commonwealth attorney against him under this subsection it shall be sufficient to allege and prove the unlawful intent of the person or corporation for whom he acts.

(3) Any person who violates any of the provisions of KRS 365.100 shall be fined not less than two hundred dollars ($200) for each offense.

(4) Any person who violates any of the provisions of KRS 365.110 shall be fined not less than ten dollars ($10) nor more than fifty dollars ($50) for each offense.

(5) Any agent or employee of a corporation or any other person who violates any of the provisions of subsection (2) of KRS 365.220 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and each day's continuance of the violation shall constitute a separate offense.

(6) A conviction of a corporation of violating any of the provisions of KRS 365.210 or 365.220 shall operate to forfeit its charter or right to do business in this state. Proceedings may be instituted by the Commonwealth's attorney in any district in this state to forfeit the charter or right to do business in this state of any corporation violating any of the provisions of KRS 365.210 or 365.220, and to subject the corporation charged, if found guilty, to the penalty imposed in subsection (7) of this section.

(7) Any company that violates any of the provisions of KRS 365.230 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), and if it is a corporation it shall, upon conviction, forfeit its charter.

(8) Failure to maintain the register or to make the report to the sheriff ***and police department*** as required by KRS 365.250 shall be a misdemeanor punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and shall be prima facie evidence that such dealer, collector or vendor received the used ***copper metal,*** copper wire, or ***copper*** cable not registered or reported, knowing it to be stolen in violation of KRS 514.110.

(9) Any person or entity that transacts a transient business as defined in KRS 365.650 without first having obtained a permit in

accordance with the provisions of KRS 365.660, 365.665, 365.680 or 365.685 or who knowingly advertises, offers for sale, or sells any goods, wares or merchandise in violation of the provisions of KRS 365.650 to 365.695, is guilty of a misdemeanor and shall, upon conviction, be fined not more than five hundred dollars ($500) or shall be imprisoned in the county jail for not more than six (6) months, or both.

HB 125, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, no person shall sell, purchase, deliver, give away, possess, use, or offer for sale or use an alcohol vaporizing device or assist another in selling or using an alcohol vaporizing device.

(2) The provisions of subsection (1) of this section shall not apply to:

- ***(a) A hospital that operates primarily for the purpose of conducting scientific research;***
- ***(b) A public institution that is a member of the postsecondary education system or an independent institution as defined in KRS 164.001 that is conducting bona fide research;***
- ***(c) A pharmaceutical or biotechnology company conducting bona fide research; or***
- ***(d) A manufacturer or distributor that sells an alcohol vaporizing device to one (1) of the entities set out in this subsection.***

(3) Persons holding an alcohol vaporizing device in accordance with paragraphs (a) to (d) of subsection (2) of this section shall retain the alcohol vaporizing device in a secure location such that it is used only for research purposes. They shall not transfer the device to an entity or institution other than one covered by subsection (2) of this section and shall destroy the device when it is no longer of use. The office may promulgate administrative regulations authorizing additional reports if the office deems the reports reasonably necessary.

Section 2. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

- (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
- (b) Patented, patent, and proprietary medicines;
- (c) Toilet, medicinal, and antiseptic preparations and solutions;
- (d) Flavoring extracts and syrups;
- (e) Denatured alcohol or denatured rum;
- (f) Vinegar and preserved sweet cider;
- (g) Wine for sacramental purposes;
- (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
- (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) ***"Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or other gas to produce a vaporized product. "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage.***

(4) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(5)[~~(4)~~] "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(6)[~~(5)~~] "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(7)[~~(6)~~] "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(8)[~~(7)~~] "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(9)[~~(8)~~] "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.

(10)[~~(9)~~] "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(11)[~~(10)~~] "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(12)[~~(11)~~] "City administrator" means city alcoholic beverage control administrator.

(13)[~~(12)~~] "Commissioner" means the commissioner of the Kentucky Department of Revenue.

(14)[~~(13)~~] "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(15)[~~(14)~~] "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(16)[~~(15)~~] "County administrator" means county alcoholic beverage control administrator.

(17)[~~(16)~~] "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(18)[~~(17)~~] "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(19)[~~(18)~~] "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(20)[~~(19)~~] "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(21)[~~(20)~~] "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(22)[~~(21)~~] "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(23)[~~(22)~~] "Executive director" means the executive director of the Office of Alcoholic Beverage Control.

(24)[~~(23)~~] "Field representative" means any employee or agent of the office who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the office who is assigned, temporarily or permanently, by the executive director to duty outside the main office of the office at Frankfort, in connection with the administration of alcoholic beverage statutes.

(25)[~~(24)~~] "License" means any license issued pursuant to KRS 243.020 to 243.670.

(26)[~~(25)~~] "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(27)[~~(26)~~] "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).

(28)[~~(27)~~] "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(29)[~~(28)~~] "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(30)[~~(29)~~] "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or

bottling of alcoholic beverages.

(31)[~~(30)~~] "Minor" means any person who is not twenty-one (21) years of age or older.

(32)[~~(31)~~] "Office" means the Office of Alcoholic Beverage Control.

(33)[~~(32)~~] "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(34)[~~(33)~~] "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(35)[~~(34)~~] "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(36)[~~(35)~~] "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(37)[~~(36)~~] "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.

(38)[~~(37)~~] "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(39)[~~(38)~~] "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(40)[~~(39)~~] "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(41)[~~(40)~~] "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(42)[~~(41)~~] "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(43)[~~(42)~~] "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.

(44)[~~(43)~~] "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(45)[~~(44)~~] "Small farm winery" means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year.

(46)[~~(45)~~] "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(47)[~~(46)~~] "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires.

(48)[~~(47)~~] "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

(49)[~~(48)~~] "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(50)[~~(49)~~] "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(51)[~~(50)~~] "Warehouse" means any place in which alcoholic beverages are housed or stored.

(52)[~~(51)~~] "Wholesale sale" means a sale to any person for the purpose of resale.

(53)[~~(52)~~] "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(54)[~~(53)~~] "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of

alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(55)[~~(54)~~] "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded.

Section 3. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself ***or herself*** or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he ***or she*** shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself ***or herself*** or through another, directly or indirectly, violates subsection (1) of KRS 243.020 shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he ***or she*** shall be guilty of a Class A misdemeanor; and for the third and each subsequent offense, he ***or she*** shall be guilty of a Class D felony.

(3) Any person who violates subsection (3) of KRS 243.020 shall be guilty of a violation.

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be guilty of a violation.

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be guilty of a Class A misdemeanor.

(6) Any person who violates any provision of KRS 243.710 to 243.850 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.

(8) Any person who, by himself or herself or acting through another, directly or indirectly, violates subsection (1) of Section 1 of this Act shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the suspension or revocation of the offender's license.

HB 175, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 516.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) ***(a) "Academic degree" means a document such as a degree, diploma, or certification of completion of a degree, course work, or degree credit, including a transcript, that provides evidence of or demonstrates completion of a course of instruction or course work, which is issued by a bona fide elementary school; secondary school; postsecondary educational institution; vocational, technical, or professional educational institution; government; or private agency that is:***

1. Licensed or granted a permit to operate by the Commonwealth of Kentucky;

2. Licensed or granted a permit to operate by a state of the United States;

3. Recognized by the United States Secretary of Education;

4. Accredited by an accrediting body recognized by the United States Secretary of Education or by a state of the United States;

5. Operated by a public agency of federal, state, or local government or an instrumentality thereof; or

6. Operated by, licensed by, granted a permit by, or recognized by the government of a foreign nation.

(b) "Academic degree" shall also include any document issued by a person or organization that is not a bona fide educational institution or does not meet the requirements of subparagraphs 1. to 6. of paragraph (a) of this subsection, which purports to give the illusion that a person has completed any course of instruction or course work offered by a school, institution, government, or agency described in paragraph (a) of this subsection;

(2) "Coin machine" means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed:

(a) To receive a coin or bill or token made for the purpose; and

(b) In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or service;

(3)[~~(2)~~] "Complete written instrument" means a written instrument which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof;

(4)[~~(3)~~] "Controlled substance" has the same meaning as it does in KRS 218A.010;

(5)[~~(4)~~] "Incomplete written instrument" means a written instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument;

(6)[~~(5)~~] To "falsely alter" a written instrument means to change, without the authority of anyone entitled to grant it, a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer;

(7)[~~(6)~~] To "falsely complete" a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that the complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer;

(8)[~~(7)~~] To "falsely make" a written instrument means to make or draw a complete written instrument in its entirety or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof;

(9)[~~(8)~~] "Forged instrument" means a written instrument which has been falsely made, completed, or altered;

(10)[~~(9)~~] "Slug" means an object or article which by virtue of its size, shape, or any other quality is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token;

(11)[~~(10)~~] "Value of the slug" means the value of the coin, bill, or token for which it is capable of being substituted; and

(12)[~~(11)~~] "Written instrument" means any instrument or article containing written or printed matter or its equivalent used for the purpose of reciting, embodying, conveying, or recording information, or constituting a symbol or evidence of value, right, privilege, or identification, which is capable of being used to the advantage or disadvantage of some person.

Section 2. KRS 516.030 is amended to read as follows:

(1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:

  (a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

  (b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee;[~~ or~~]

  (c) A written instrument officially issued or created by a public office, public employee or governmental agency***; or***

  (d) An academic degree.

(2) Forgery in the second degree is a Class D felony.

The Committee Substitute to **HB 175** is as follows:

HB 175, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 516.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) ***(a) "Academic degree" means a document such as a degree, diploma, or certification of completion of a degree, course work, or degree credit, including a transcript, that provides evidence of or demonstrates completion of a course of instruction or course work, which is issued by a bona fide elementary school; secondary school; postsecondary educational institution; vocational, technical, or professional educational institution; government; or private agency that is:***

  1. Licensed or granted a permit to operate by the Commonwealth of Kentucky;

  2. Licensed or granted a permit to operate by a state of the United States;

  3. Recognized by the United States Secretary of Education;

  4. Accredited by an accrediting body recognized by the United States Secretary of Education;

  5. Operated by a public agency of federal, state, or local government or an instrumentality thereof; or

  6. Operated by, licensed by, granted a permit by, or recognized by the government of a foreign nation.

  (b) "Academic degree" shall also include any document issued by a person or organization that is not a bona fide educational institution or does not meet the requirements of subparagraphs 1. to 6. of paragraph (a) of this subsection, which purports to give the illusion that a person has completed any course of instruction or course work offered by a school, institution, government, or agency described in paragraph (a) of this subsection;

(2) "Coin machine" means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed:

(a) To receive a coin or bill or token made for the purpose; and

(b) In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or service;

(3)[~~(2)~~] "Complete written instrument" means a written instrument which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof;

(4)[~~(3)~~] "Controlled substance" has the same meaning as it does in KRS 218A.010;

(5)[~~(4)~~] "Incomplete written instrument" means a written instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument;

(6)[~~(5)~~] To "falsely alter" a written instrument means to change, without the authority of anyone entitled to grant it, a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer;

(7)[~~(6)~~] To "falsely complete" a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that the complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer;

(8)[~~(7)~~] To "falsely make" a written instrument means to make or draw a complete written instrument in its entirety or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof;

(9)[~~(8)~~] "Forged instrument" means a written instrument which has been falsely made, completed, or altered;

(10)[~~(9)~~] "Slug" means an object or article which by virtue of its size, shape, or any other quality is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token;

(11)[~~(10)~~] "Value of the slug" means the value of the coin, bill, or token for which it is capable of being substituted; and

(12)[~~(11)~~] "Written instrument" means any instrument or article containing written or printed matter or its equivalent used for the purpose of reciting, embodying, conveying, or recording information, or constituting a symbol or evidence of value, right, privilege, or identification, which is capable of being used to the advantage or disadvantage of some person.

Section 2. KRS 516.030 is amended to read as follows:

(1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:

(a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

(b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee;[~~ or~~]

(c) A written instrument officially issued or created by a public office, public employee or governmental agency*; or*

(d) An academic degree.

(2) Forgery in the second degree is a Class D felony.

HB 214, AN ACT relating to law enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.410 is amended to read as follows:

It is the intention of the General Assembly to assure that the criminal laws of the Commonwealth are enforced fairly, uniformly and effectively throughout the state by strengthening and upgrading[~~ local~~] law enforcement; to attract competent, highly qualified[~~ young~~] people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens of, and the visitors to, this Commonwealth; and to offer a state monetary supplement for[~~ local~~] law enforcement officers ***who maintain proficiency in***[~~while upgrading~~] the educational and training standards ***for***[~~of~~] such officers.

Section 2. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "[~~Local~~]Unit of government" means ***the Commonwealth of Kentucky,*** any city or county, combination of cities and counties, state or public university, or county sheriff's office of the Commonwealth.

(2) ***(a)*** "Police officer" means a full-time***:***

1. Member of a lawfully organized police department of county, urban-county or city government*;*[~~, a~~]

2. Sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030*;*[~~, or a~~]

3. State or public university police officer*;*

4. Kentucky Vehicle Enforcement officer; or

5. Trooper, arson investigator, hazardous devices investigator, or legislative security specialist employed by the Kentucky State Police.

(b) "Police officer" shall not include the following:[~~ who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any~~]

1. A sheriff who earns the maximum constitutional salary for this office*;*[~~, any~~]

2. A special deputy sheriff appointed under KRS 70.045*;*[~~, any~~]

3. A constable *or*[~~,~~] deputy constable*;*[~~,~~]

4. A district detective *or*[~~,~~] deputy district detective*;*[~~,~~]

5. A special local peace officer*;*[~~,~~]

6. An auxiliary police officer*;* or

7. Any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 3. KRS 15.430 is amended to read as follows:

[~~(1)~~]There is hereby established the Law Enforcement Foundation Program fund consisting of[~~ appropriations from the general fund of the Commonwealth of Kentucky, and~~] insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund. ***All moneys in this account shall not lapse.***

[~~(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, but, beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse.~~]

Section 4. KRS 15.440 is amended to read as follows:

(1) Each[~~ local~~] unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(a) Employs one (1) or more police officers *as defined in Section 2 of this Act*;

(b) Pays every police officer at least the minimum federal wage;

(c) *Requires all police officers hired on or after the following dates to have*[~~Maintains the minimum educational requirement of~~] a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council*:*[~~, for employment of police officers on or after~~]

1. July 1, 1972, *for county, urban-county, or city police officers;*[~~and for all sheriffs appointed or elected on or after~~]

2. July 15, 1998, *for:*[~~and all~~]

a. Sheriffs or full-time deputy sheriffs, *including any providing court security or appointed under KRS 70.030;* and

b. State or public university police officers[~~ employed after July 15, 1998~~];

3. December 1, 1998, for troopers, arson investigators, hazardous devices investigators, and legislative services specialists employed by the Kentucky State Police;

4. The date on which Kentucky Vehicle Enforcement officers were included in the Peace Officer Professional Standards Act, pursuant to KRS 15.380 to 15.404.

[~~ provided, however, that ~~]All police officers employed prior to *the dates specified above*[~~July 1, 1972,~~] shall be deemed to have met the requirements of this subsection[~~, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met the requirements of this subsection~~];

(d) Requires all police officers ***hired***~~[employed]~~ on or after ***the following dates***~~[July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998,]~~ to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council***:***

1. July 1, 1972, for county, urban-county, or city police officers;

2. January 1, 1998, for:

a. Deputy sheriffs, including any providing court security or appointed under KRS 70.030; and

b. State or public university police officers;

3. July 15, 1998, for sheriffs;

4. December 1, 1998, for troopers, arson investigators, hazardous devices investigators, and legislative security specialists employed by the Kentucky State Police;

5. The date on which Kentucky Vehicle Enforcement officers were included in the Peace Officer Professional Standards Act, pursuant to KRS 15.380 to 15.404.

All officers employed prior to the dates listed above~~[. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998,]~~ shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

(e) Requires all police officers~~[, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998,]~~ to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

(f) ***Complies***~~[Requires compliance]~~ with all provisions of law applicable to ***police officers***~~[local police, state or public university police, or sheriffs and their deputies]~~, including transmission of data to the centralized criminal history record information system as required by KRS 17.150; and

(g) ***Complies***~~[Requires compliance]~~ with all reasonable rules and regulations~~[, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office,]~~ issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(2) No~~[local]~~ unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the ***unit of government***~~[local police department, state or public university police department, or sheriff's office]~~ actually begins and continues to comply with the requirements of this section; provided, further, that no~~[local]~~ unit ***of government*** shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the ***unit of government***~~[local police department, state or public university police department, or sheriff's office]~~ has substantially complied with subsection (1)(f) and (g) of this section.

(3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

Section 5. KRS 15.450 is amended to read as follows:

(1) The secretary or his designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as, in his judgment, are necessary to carry out his responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(2) The secretary or his designated representative shall determine which ***police officers and***~~[local]~~ units of government are eligible to share in the Law Enforcement Foundation Program fund and may withhold or terminate payments to any ***police officer or***~~[local]~~ unit ***of government*** that does not comply with the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the Justice Cabinet under KRS 15.410 to 15.510.

(3) The Justice Cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.

(4) The Justice Cabinet shall furnish periodically to the council any reports as may be deemed reasonably necessary.

Section 6. KRS 15.460 is amended to read as follows:

(1) Beginning ***July 1, 2007***[~~July 15, 1998~~], an eligible[~~ local~~] unit of government shall be entitled to receive annually a supplement of ***three***[~~two~~] thousand ***one***[~~seven~~] hundred[~~ fifty~~] dollars ***($3,100)***[~~($2,750) for each qualified police officer it employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000)~~] for each[~~ qualified~~] police officer it employs ***that meets the requirements of Section 4 of this Act***, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the[~~ County Employees Retirement System~~] hazardous duty category ***of the County Employees Retirement System, Kentucky Employees Retirement System, or State Police Retirement System***.

(2) In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The[~~ local~~] unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(3)[~~(2)~~] Each[~~ qualified~~] police officer, whose ***unit of***[~~local~~] government receives a supplement pursuant to subsection (1) of this section, shall be paid by the ***unit of***[~~local~~] government the supplement which his ***training, education, and*** qualifications brought to the ***unit of***[~~local~~] government. The supplement paid each police officer shall be in addition to his regular salary.

(4)[~~(3)~~] (a) ***A***[~~Each qualified~~] sheriff who ***meets the requirements of Section 4 of this Act and*** receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) ***A***[~~Each qualified~~] sheriff who ***meets the requirements of Section 4 of this Act, but*** does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court under KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) ***A***[~~Each qualified~~] sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared under KRS 134.310 to the fund. The sheriff shall reimburse the fund if an audit of the final settlement conducted pursuant to KRS 134.310 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) ***A***[~~Each qualified~~] deputy sheriff ***who meets the requirements of Section 4 of this Act*** shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies to participate in the fund.

Section 7. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to[~~ local~~] units ***of government*** shall be received, held, and expended in accordance with the provisions of KRS 15.410 to 15.510, including the rules and regulations issued by the Justice Cabinet, and the following specific restrictions:

(1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;

(2) Funds provided shall be used only to compensate police officers who ***meet the requirements of Section 4 of this Act***[~~have complied with KRS 15.440(1)(c), (d), and (e)~~].

(3) Each police officer shall be entitled to receive the state supplement which his ***training, education, and*** qualifications brought to the[~~ local~~] unit;

(4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 8. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the Justice Cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due each participating[~~ local~~] unit ***of government***. Checks shall be issued by the State Treasurer and transmitted to the Justice Cabinet for distribution to the proper officials of participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the rules and regulations of the Justice Cabinet. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the Law Enforcement Foundation Program fund.

Section 9. KRS 15.490 is amended to read as follows:

(1) Each participating[~~ local~~] unit of government shall submit reports to the Justice Cabinet on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training, and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to

15.510. Nothing in this section shall prohibit the Justice Cabinet from requiring additional information or reports from participating[~~ local~~] units of government;

(2) [~~Local ~~]Units of government shall include the additional compensation paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions.

Section 10. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the General Assembly and otherwise made available to the Law Enforcement Foundation Program fund are insufficient to provide the amount of money required by KRS 15.460, the Justice Cabinet shall establish the rate of assistance to be paid to eligible[~~ local~~] units of governments.

(2) Funds unexpended by the Justice Cabinet at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 15.410 to 15.500.

Section 11. KRS 15.510 is amended to read as follows:

An appeal may be taken from any decision of the Justice Cabinet to withhold or terminate payment from the Law Enforcement Foundation Program fund to any ***police officer or***[~~local~~] unit of government. Appeals shall be taken to the ***Franklin*** Circuit Court[~~ of the county where the controversy originates~~].

Section 12. KRS 15.520 is amended to read as follows:

(1) In order to establish a minimum system of professional conduct of the police officers of local units of government of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the local unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:

1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;

2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;

3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;

4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension;

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;

(e) Any charge involving violation of any local unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the local unit of government or the police officer so charged, until final disposition of the charges;

(g) No police officer as a condition of continued employment by the local unit of government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and

(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;
2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than seventy-two (72) hours prior to the time of any hearing;
3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;
4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;
5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;
6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;
7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;
8. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and
9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.

(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the local unit of government may be located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.

(3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance, or working agreement.

(4) The provisions of this section shall apply only to police officers of ***city, county, or urban-county***[~~local~~] units of government who receive funds pursuant to KRS 15.410 through 15.992 ***and shall not supersede the provisions of KRS 16.140, 161.150, and 16.160, relating to officers of the Kentucky State Police, or KRS 281.772, relating to Kentucky Vehicle Enforcement officers, or any administrative regulations promulgated thereunder***.

The Committee Substitute to **HB 214** is as follows:

HB 214, AN ACT relating to law enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.410 is amended to read as follows:

It is the intention of the General Assembly to assure that the criminal laws of the Commonwealth are enforced fairly, uniformly and effectively throughout the state by strengthening and upgrading[~~ local~~] law enforcement; to attract competent, highly qualified[~~ young~~] people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens of, and the visitors to, this Commonwealth; and to offer a state monetary supplement for[~~ local~~] law enforcement officers ***who maintain proficiency in***[~~while upgrading~~] the educational and training standards ***for***[~~of~~] such officers.

Section 2. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) [~~"Local~~]"Unit of government" means ***the Commonwealth of Kentucky,*** any city or county, combination of cities and counties, ***local board of education that appoints school security officers under KRS 61.902,*** state or public university, or county sheriff's office of the Commonwealth.

(2) "Police officer" means a full-time ***peace officer required to be certified under KRS 15.380(1), except that the term "police officer" shall not include the Kentucky State Police, a sheriff who earns the maximum constitutional salary for this office, or any other peace officer who is not required to be certified under KRS 15.380(1)***[~~member of a lawfully organized police department of county, urban-county or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510~~].

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 3. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) ***All moneys remaining in this restricted fund on July 1, 2007, including earnings from their investment, shall not lapse to the general fund at the end of any fiscal year but shall be carried forward into the following fiscal year. Because this fund was created for the vital purpose of providing and improving law enforcement training and to provide stipends for Kentucky peace officers who maintain their training proficiency, no funds shall be transferred from this account other than transfers permitted under KRS 15.410 to 15.515 which will cause the balance of the fund to fall below five million dollars ($5,000,000)***[~~All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, but, beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse~~].

(3) Moneys in the fund are hereby appropriated by the General Assembly for the purposes provided in KRS 15.410 to 15.515.

Section 4. KRS 15.440 is amended to read as follows:

(1) Each[~~ local~~] unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(a) Employs one (1) or more police officers ***as defined in KRS 15.420(2)***;

(b) Pays every police officer at least the minimum federal wage;

(c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for[~~ employment of~~] police officers ***hired on or after the following dates:***

1. July 1, 1972, for county, urban-county , or city police officers;

2. July 15, 1998, for the following police officers:

a. Sheriffs or full-time deputy sheriffs, including any providing court security or appointed under KRS 70.030; and

b. State or public university police officers;

3. December 1, 1998, for troopers, arson investigators, hazardous devices investigators, and legislative services specialists employed by the Kentucky State Police;

4. The date on which Kentucky Vehicle Enforcement officers were included in the Peace Officer Professional Standards Act, pursuant to KRS 15.380 to 15.404.

a. Sheriffs or full-time deputy sheriffs, including any providing court security or appointed under KRS 70.030; and

b. State or public university police officers;

5. December 1, 1998, for the following police officers:

  a. School security officers appointed under KRS 15.380(1)(e);

  b. Office of Alcoholic Beverage Control field representatives or investigators appointed under KRS 241.090;

  c. Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;

  d. County detectives as described in KRS 15.380(1)(i);

6. The date on which the following were included in the Peace Officer Professional Standards Act, pursuant to KRS 15.380 through 15.404;

  a. Department of Fish and Wildlife officers;

  b. Kentucky Vehicle Enforcement officers;

  c. Investigators for the Office of the Attorney General;

  d. Investigators for the Department of Charitable Gaming;

  e. Department of Parks officers; and

  f. Department of Agriculture officers;

Provided, however, that all officers employed prior to the dates listed above shall be deemed to have met the requirements of this subsection[~~on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met the requirements of this subsection~~];

(d) Requires all police officers ***hired***[~~employed~~] on or after ***the following dates have successfully completed a basic training course of at least six hundred forty (640) hours duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council:***

1. July 1, 1972, for county, urban-county, or city police officers;

2. January 1, 1998, for the following police officers:

  a. Deputy sheriffs, including any providing court security or appointed under KRS 70.030; and

  b. State or public university police officers;

2. July 15, 1998, for sheriffs:

3. December 1, 1998, for the following police officers:

  a. School security officers appointed under KRS 15.380(1)(e);

  b. Department of Alcoholic Beverage Control field representatives or investigators appointed under KRS 241.090;

  c. Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;

  d County detectives as described in KRS 15.380(l)(i);

4. The date on which the following were included in the Peace Officer Professional Standards Act, pursuant to KRS 15.380 through 15.404:

  a. Department of Fish and Wildlife officers;

  b. Kentucky Vehicle Enforcement officers;

  c. Investigators for the Office of the Attorney General;

  d. Investigators for the Department of Charitable Gaming;

  e. Department of Parks officers; and

  f. Department of Agriculture officers;

Provided, however, that all officers employed prior to the dates listed above[~~July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998,~~] shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

(e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

(f) ***Complies***[~~Requires compliance~~] with all provisions of law applicable to ***police officers***[~~local police, state or public university police, or sheriffs and their deputies~~], including transmission of data to the centralized criminal history record information system as required by KRS 17.150; and

(g) ***Complies***[~~Requires compliance~~] with all reasonable rules and regulations[~~, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office,~~] issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(2) No[~~ local~~] unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the ***unit of government***[~~local police department, state or public university police department, or sheriff's office~~] actually begins and continues to comply with the requirements of this section; provided, further, that no[~~ local~~] unit ***of government*** shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the ***unit of government***[~~local police department, state or public university police department, or sheriff's office~~] has substantially complied with subsection (1)(f) and (g) of this section.

(3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

Section 5. KRS 15.450 is amended to read as follows:

(1) The secretary or his designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as, in his judgment, are necessary to carry out his responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(2) The secretary or his designated representative shall determine which ***police officers and***[~~local~~] units of government are eligible to share in the Law Enforcement Foundation Program fund and may withhold or terminate payments to any ***police officer or***[~~local~~] unit ***of government*** that does not ***meet***[~~comply with~~] the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the Justice Cabinet under KRS 15.410 to 15.510.

(3) The Justice Cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.

(4) The Justice Cabinet shall furnish periodically to the council any reports as may be deemed reasonably necessary.

Section 6. KRS 15.460 is amended to read as follows:

(1) Beginning ***July 1, 2007***[~~July 15, 1998~~], an eligible[~~ local~~] unit of government shall be entitled to receive annually a supplement of ***three***[~~two~~] thousand ***one***[~~seven~~] hundred[~~ fifty~~] dollars ***($3,100)***[~~($2,750) for each qualified police officer it employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000)~~] for each[~~ qualified~~] police officer it employs ***who meets the requirements of Section 4 of this Act***, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the[~~ County Employees Retirement System~~] hazardous duty category ***of the County Employees Retirement System or the Kentucky Employees Retirement System***.

(2) In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The[~~ local~~] unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(3)[~~(2)~~] Each[~~ qualified~~] police officer, whose ***unit of***[~~local~~] government receives a supplement pursuant to subsection (1) of this section, shall be paid by the ***unit of***[~~local~~] government the supplement which his ***training, education, and*** qualifications brought to the ***unit of***[~~local~~] government. The supplement paid each police officer shall be in addition to his regular salary.

(4)[~~(3)~~] (a) ***A***[~~Each qualified~~] sheriff who ***meets the requirements of Section 4 of this Act and*** receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) ***A***[~~Each qualified~~] sheriff who ***meets the requirements of Section 4 of this Act, but*** does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court under KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) ***A***[~~Each qualified~~] sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared under KRS 134.310 to the fund. The sheriff shall reimburse the fund if an audit of the final settlement conducted pursuant to KRS 134.310 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) ***A***[~~Each qualified~~] deputy sheriff ***who meets the requirements of Section 4 of this Act*** shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies to participate in the fund.

Section 7. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to[~~ local~~] units ***of government*** shall be received, held, and expended in accordance with the provisions of KRS 15.410 to 15.510, including the rules and regulations issued by the Justice Cabinet, and the following specific restrictions:

(1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;

(2) Funds provided shall be used only to compensate police officers who ***meet the requirements of Section 4 of this Act***[~~have complied with KRS 15.440(1)(c), (d), and (e)~~].

(3) Each police officer shall be entitled to receive the state supplement which his ***training, education, and*** qualifications brought to the[~~ local~~] unit;

(4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 8. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the Justice Cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due each participating[~~ local~~] unit ***of government***. Checks shall be issued by the State Treasurer and transmitted to the Justice Cabinet for distribution to the proper officials of participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the rules and regulations of the Justice Cabinet. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the Law Enforcement Foundation Program fund.

Section 9. KRS 15.490 is amended to read as follows:

(1) Each participating[~~ local~~] unit of government shall submit reports to the Justice Cabinet on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training, and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the Justice Cabinet from requiring additional information or reports from participating[~~ local~~] units of government;

(2) [~~Local~~]Units of government shall include the additional compensation paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions.

Section 10. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the General Assembly and otherwise made available to the Law Enforcement Foundation Program fund are insufficient to provide the amount of money required by KRS 15.460, the Justice Cabinet shall establish the rate of assistance to be paid to eligible[~~ local~~] units of governments.

(2) Funds unexpended by the Justice Cabinet at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 15.410 to 15.500.

Section 11. KRS 15.510 is amended to read as follows:

An appeal may be taken from any decision of the Justice Cabinet to withhold or terminate payment from the Law Enforcement Foundation Program fund to any ***police officer or***[~~local~~] unit of government. Appeals shall be taken to the Circuit Court of the county where the controversy originates.

Section 12. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, ***2007***[~~1982~~], an eligible local government shall be entitled to receive annually a supplement of[~~ two thousand seven hundred fifty dollars ($2,750) for each qualified professional firefighter it employs, and beginning on July 1, 1999, an annual supplement of~~] three thousand ***one hundred*** dollars ***($3,100)***[~~($3,000)~~] for each qualified professional firefighter it

employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary.

(3) Beginning July 1, 2006:

(a) The Kentucky Community and Technical College System shall be entitled to receive annually a supplement equal to the amount determined in subsection (1) of this section for each Kentucky fire and rescue training coordinator employed by the Kentucky Community and Technical College System who meets the qualifications for individual firefighters required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan; and

(b) The Department of Military Affairs shall be entitled to receive annually a supplement equal to the amount determined in subsection (1) of this section for each civilian firefighter employed by the Department of Military Affairs who meets the qualifications for individual firefighters required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan.

Each fire and rescue training coordinator employed by the Kentucky Community and Technical College System and each civilian firefighter employed by the Department of Military Affairs, whose employer receives a supplement pursuant to this subsection, shall be paid by that employer the supplement which his or her qualifications brought to the employer. The supplements paid shall be in addition to his or her regular salary.

Section 13. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June, and September thereafter, the cabinet shall request in writing of the administrator of the Firefighters Foundation Program fund, which is established by KRS 95A.220, and of the administrator of the Law Enforcement Foundation Program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the cabinet shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund.

(2) On or before the first day of each quarter, the cabinet shall certify to the State Treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the State Treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax moneys as set forth and in the manner as prescribed in KRS 136.392.

(3) Moneys deposited in the Firefighters Foundation Program fund's trust and agency account, and in the Law Enforcement Foundation Program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All moneys remaining on deposit at the close of the state's fiscal year in the Firefighters Foundation Program fund's trust and agency account and all earnings from investments made from moneys in this account in ***this restricted fund on July 1, 2007, including earnings from their investment, shall not lapse to the general fund at the end of any fiscal year but shall be carried forward into the following fiscal year. Because this fund was created for the vital purpose of providing and improving firefighter training and to provide stipends for Kentucky firefighters who maintain their training proficiency, no funds shall be transferred from this account other than transfers permitted under KRS 95A.200 to 95A.300 which will cause the balance of the fund to fall below five million dollars ($5,000,000)***[~~excess of three million dollars ($3,000,000), beginning with fiscal year 1994-95, through June 30, 1999, shall lapse, except that moneys in the revolving loan fund established in KRS 95A.262 shall not lapse~~]. All moneys remaining on deposit at the close of the state's fiscal year in the Law Enforcement Foundation Program fund's trust and agency account, and all earnings from investments made from moneys in this account, in ***this restricted fund on July 1, 2007, including earnings from their investment, shall not lapse to the general fund at the end of any fiscal year but shall be carried forward into the following fiscal year. Because this fund was created for the vital purpose of providing and improving law enforcement training and to provide stipends for Kentucky peace officers who maintain their training proficiency, no funds shall be transferred from this account other than transfers permitted under KRS 15A.410 to 15.515 which will cause the balance of the fund to fall below five million dollars ($5,000,000)***[~~excess of three million dollars ($3,000,000), beginning with fiscal year 1994-95, through June 30, 1999, shall lapse. On and after July 1, 1999, moneys in these~~

~~accounts shall not lapse~~].

(4) The cabinet shall provide monthly financial reports to the administrator of the Firefighters Foundation Program fund and the administrator of the Law Enforcement Foundation Program fund respecting the amount of funds received and on deposit in each fund and the amount of earnings accruing to each fund from their investment.

Section 14. KRS 95A.220 is amended to read as follows:

(1) There is established the "Firefighters Foundation Program Fund" consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments and volunteer fire departments in accordance with the provisions of KRS 95A.200 to 95A.300 and KRS 95A.262.

(2) ***All moneys remaining in this restricted fund on July 1, 2007, including earnings from their investment, shall not lapse to the general fund at the end of any fiscal year but shall be carried forward into the following fiscal year. Because this fund was created for the vital purpose of providing and improving law enforcement training and to provide stipends for Kentucky peace officers who maintain their training proficiency, no funds shall be transferred from this account other than transfers permitted under KRS 95A.200 to 95A.300 which will cause the balance of the fund to fall below five million dollars ($5,000,000)***[~~All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account. Beginning with the fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse~~].

(3) Moneys in the fund are hereby appropriated by the General Assembly for the purposes provided in KRS 95A.200 to 95A.300.

The Committee Amendment No. 1 Title to **HB 214** is as follows:

HB 214, Amend the title to read as follows: "AN ACT relating to public safety personnel."

Calendar

HB 3, 70, 32, 100, 145, 197, 210, 285, HJR 7, 11, 19, HCR 25, 29, 31, 32, 46, HB 1, 244, 89, 144, 179, 215, 370, 389, HCR 18, HB 107, 114, 115, 201, 240, and **273** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Jenkins moved that the rules be suspend to act on a Resolution. Agreed.

Representative Jenkins moved the adoption of the following **HR 138**:

HR 138, A RESOLUTION adjourning the House of Representatives in honor of Angela Lynn Akridge upon the occasion of being named 2006 Young Engineer of the Year by the National Society of Professional Engineers.

WHEREAS, Angela Lynn Akridge received both her bachelor's degree and master's degree in civil engineering from the University of Louisville's Speed Scientific School and earned the designation of Professional Engineer, which requires detailed and broad-based knowledge of the fundamental skills of engineering, including engineering ethics; and

WHEREAS, Ms. Akridge serves the people of Louisville and Jefferson County as Regulatory Policy Manager for the Metropolitan Sewer District, leading the agency's efforts to design, plan, operate, and maintain a safe and clean wastewater program. Ms. Akridge has also helped to design and implement the district's Erosion Prevention and Sediment Control Ordinance and Combined Sewer Overflow abatement program; and

WHEREAS, Ms. Akridge has been an active leader in organizations of her peers, serving as a member of the Kentucky Society of Professional Engineers' Board of Directors and as president of the group's Louisville Chapter. She has also been actively involved in the American Society of Professional Engineers, Business and Professional Women, Kentucky-Tennessee Water Environmental Association, National Association of Clean Water Agencies, Water Environment Federation, and Leadership PE; and

WHEREAS, Ms. Akridge was named 2005 Young Engineer of the Year by the Kentucky Society of Professional Engineers in recognition of her efforts toward enhancing surface water quality programs for the Metropolitan Sewer District and her entire community; and

WHEREAS, the National Society of Professional Engineers named Ms. Akridge its 2006 Young Engineer of the Year in recognition of her many outstanding contributions to the safety, health, and protection of her community and her Commonwealth; and

WHEREAS, Ms. Akridge has served her fellow Kentuckians in numerous other ways through civic and humanitarian engagement. Ms. Akridge founded and is treasurer of the Mad Money Makers Investment Club, an all-female investment club that develops the financial skills, leadership abilities, and independence of its members. She also has dedicated her time to raising money for cancer research as well as volunteering with the Maryhurst Mentoring Program, the Boy Scouts of America Engineering Explorers' Post, and the MATHCOUNTS program; and

WHEREAS, in all these endeavors, Ms. Akridge has demonstrated a devotion to science, mathematics, technology, and citizenship that this honorable body seeks to instill in all Kentuckians;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives, both individually and collectively, do hereby applaud the accomplishments of Angela Lynn Akridge, congratulate her on the honor of being named 2006 National Young Engineer of the Year, and declare her to be a shining example for all citizens of the Commonwealth and an outstanding role model for all young Kentuckians.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Angela Lynn Akridge.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Angela Lynn Akridge, 8203 Grandfield Way, Louisville, Kentucky 40258.

There being no objection, **HR 138** was adopted.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 5, 3, 70, 89, 100, 114, 115, 144, 145, 197, 201, 244, 273, 285, 370, 389, HCR 18, 19, 25, 29, 31, 32, 46, HJR 7,** and **11** have been posted for passage in the Regular Orders of the Day for February 15, 2007.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 1, 179**

Orders of the Day

HB 136 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved that **HB 136** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 14, 2007, roll call on **HB 136** - Appendix.)

HB 136 was passed and the title agreed to.

Representative Pasley moved that the vote by which **HB 136** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 62, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 62**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 62**. Agreed.

Representative Cherry moved that **HB 62**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 14, 2007, roll call on **HB 62** - Appendix.)

HB 62, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 62**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 53, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 53**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 53**. Agreed.

Representative Burch moved that **HB 53**, by way of Committee Substitute, as amended, be passed.

Representative Harmon moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 53**.

Representative C. Belcher inquired whether Floor Amendment No. 5 to **HB 53** has a fiscal impact.

Representative Harmon stated that he was unaware of any fiscal impact.

On the roll call to adopt Floor Amendment No. 5 the vote was: **Yeas 36, Nays 59**. (See February 14, 2007, roll call on **HB 53** - Appendix.)

Floor Amendment No. 5 was rejected.

On the roll call to pass **HB 53**, by way of Committee Substitute, as amended, the vote was: **Yeas 89, Nays 9**. (See February 14, 2007, roll call on **HB 53** - Appendix.)

HB 53, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 53**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **HB 225, 287, 390, HCR 126, HB 430, 438, 4, 234, HJR 13,** and **HCR 120**. Agreed.

Representative Adkins moved that **HB 341** be reassigned to the Committee on Licensing and Occupations. Agreed.

Representative Westrom moved the adoption of the following **HR 49**:

HR 49, A RESOLUTION urging the Cabinet for Health and Family Services to include chronic obstructive pulmonary disease in their chronic disease initiatives.

WHEREAS, chronic obstructive pulmonary disease (COPD), also know as chronic bronchitis and emphysema, is the fourth leading cause of death in the United States, and the only one of the top five causes of death whose prevalence and death rate are rising; and

WHEREAS, COPD is a chronic progressive disease which has been estimated to impact as many as 24 million Americans; and

WHEREAS, smoking is a major cause of COPD; and

WHEREAS, over 60 percent of individuals diagnosed with COPD are under the age of 65, and the incidence of COPD in females has surpassed the incidence in males; and

WHEREAS, many individuals suffering with COPD are not diagnosed until they have reached an advanced stage of COPD, which often includes a disabling degree of lung dysfunction; and

WHEREAS, a diagnostic test for COPD, known as spirometry, is available for office use, allowing early diagnosis of COPD; and

WHEREAS, the annual cost to the nation for COPD in 2004 was estimated to be approximately $37 billion; and

WHEREAS, early diagnosis and management of COPD can effectively reduce the overall financial burden of the illness within public programs, including Medicaid; and

WHEREAS, disease management has been demonstrated to reduce the overall costs of care and increase the quality of life for individuals with chronic diseases, especially when targeted to appropriate conditions and individuals; and

WHEREAS, COPD has often been overlooked as a chronic disease suitable for inclusion in disease management programs, even through studies have demonstrated that individuals with COPD benefit from these programs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body encourages the Cabinet for Health and Family Services and the federal government to support disease management initiatives as tools to assist individuals suffering with chronic diseases, while reducing the cost burden of chronic diseases in Medicaid and other publicly funded programs.

Section 2. This honorable body urges the Cabinet for Health and Family Services to include COPD in the cabinet's chronic disease initiatives, including but not limited to screening with spirometry, smoking cessation, and disease management programs. The goals shall be to reduce total health care costs associated with COPD, while increasing quality of care for those suffering with this chronic disease.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the secretary of the Cabinet for Health and Family Services and to the secretary of the United States Department of Health and Human Services.

There being no objection, **HR 49** was adopted.

Representative Ford moved the adoption of the following **Legislative Citation No. 31.**

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Martha Fulcher Estep and joins Representative Danny Ford, Representative Jimmy Higdon, Representative Jeffrey Hoover, Representative Tommy Turner and Representative Ken Upchurch in expressing deepest sympathy to the Estep Family and all who mourn the loss of this esteemed citizen of the Bob Town-Dabney Community on February 8, 2007. The daughter of the late John Wright and Lurley Tennessee Ford Cain, she was preceded in death by a brother, Jim Cain, and sisters, Grace Gunther, Frances Silvey, Barton Aycock, Jo Robinson and Johnnie Lancaster. She is survived by her cherished husband, Charlie Estep; beloved children, Bill Fulcher, Johnny Fulcher, Bobby Fulcher and Barbara Reynolds; grandchildren, Morgan Raeann and Robert Marion; and, a host of other family members, friends and loved ones. This highly-regarded lady, a 1973 graduate of Eubank High School who attended Somerset Community College for two years and majored in business and real estate; a skilled farmer and businesswoman who owned and operated Dabney Feed Supply, Pulaski Farm Mart, Tri County Farm Mart, Broadhead Farm Mart, Dabney Crop Ins., Dabney Greenhouses and Foxes Den; a charter member of Bethel Baptist Church; and, a faithful member of Eden Baptist Church, is remembered on this day and honored for the many and generous contributions she made to her family, friends and the community. Martha Fulcher Estep will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 31 was adopted without objection.

Representative Moberly moved the adoption of the following **Legislative Citation No. 20.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Richmond Chamber of Commerce and extends a warm welcome to the representatives of this highly-respected Madison County organization who are present today in the House Chambers during the 2007 Regular Session of the Kentucky General Assembly. Comprised of businesses which have joined together to create a regional economic partnership that fosters communication and cooperation between member businesses, government agencies, schools and community organizations in order to serve as an advocate for important issues, legislation and programs affecting Central Kentucky, the Richmond Chamber of Commerce has put forth great effort to fulfill its mission to "provide vision and leadership for Richmond and Madison County with a firm commitment to support economic development, a positive business climate, and stability and growth for its members, while developing Madison County's New Economy and Human Capital." The members of this distinguished body are honored to join with Representative Harry Moberly, Jr. in applauding the esteemed members of the Richmond Chamber of Commerce on this notable occasion and in offering best wishes for the organization's continued success and good fortune. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and seven.

Legislative Citation No. 20 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 478, by Representative Collins: AN ACT relating to motor vehicle usage tax.

HB 479, by Representatives C. Belcher and Moberly: AN ACT relating to taxation.

HB 480, by Representatives C. Belcher and Brinkman: AN ACT relating to income tax.

HB 481, by Representative Graham: AN ACT relating to motor vehicles.

HB 482, by Representative Osborne: AN ACT relating to unpaid wages.

HB 483, by Representative Moore: AN ACT relating to early voting.

HB 484, by Representative Moore: AN ACT proposing to amendments to the Constitution of Kentucky relating to voting.

HB 485, by Representative Kerr: AN ACT relating to crimes and punishments.

HB 486, by Representatives Weston, Clark, Jenkins, Riggs, Brinkman, Firkins, Stacy, Palumbo, Hoffman, and Keene: AN ACT relating to retirement.

HB 487, by Representative Rasche: AN ACT relating to school attendance area.

HB 488, by Representative Butler: AN ACT relating to elections.

HB 489, by Representative Horlander: AN ACT relating to local government nuisance liens.

HB 490, by Representatives Yonts, Webb, Santoro, and Keene: AN ACT relating to the construction industry.

HB 491, by Representative Webb: AN ACT relating to workers' compensation.

HB 492, by Representative Webb: AN ACT relating to administrative law judges.

HB 493, by Representative Webb: AN ACT relating to the Workers' Compensation Board.

HB 494, by Representative Webb: AN ACT relating to worker's compensation.

HB 495, by Representative Webb: AN ACT relating to workers' compensation.

HB 496, by Representative Jenkins: AN ACT relating to planning and zoning notices.

HB 497, by Representative Jenkins: AN ACT relating to equine transactions.

HB 498, by Representative Couch: AN ACT relating to use of territory as a factor in establishing insurance rates.

HB 499, by Representative Harmon: AN ACT relating to employee compensation.

HR 140, by Representatives Jenkins, Owens, Horlander, Marzian, Meeks, Miller, Burch, Weston, Clark, Riggs, and Firkins: A RESOLUTION urging United States Senator Mitch McConnell and United States Representative John Yarmuth to obtain additional funding for the Louisville Bridges project.

HCR 141, by Representatives Pullin, Crenshaw, Floyd, Rader, Pasley, and Keene: A CONCURRENT RESOLUTION urging awareness by educators and the retail community of the special access needs of those living with Crohn's disease.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HB 243, 242, 245, 297**

Licensing and Occupations: **HB 341**

Labor and Industry: **HB 206**

Health and Welfare: **HJR 13, HB 234, HCR 117**

Economic Development: **HB 127**

Floor Amendments

Floor Amendment No. 1 to **HB 312**, by Representative Vincent:

HB 312, On page 10, by deleting lines 19 through 27 in their entirety; and

On page 11, by deleting line 1 in its entirety.

Floor Amendment No. 1 to **HB 114**, by Representative Pasley:

HB 114, On page 1, line 11, before the word "In" by inserting the following, "***Except in counties containing an urban-county government or a consolidated local government,***".

Floor Amendment No. 1 to **HB 345**, by Representative Wuchner:

HB 345, On page 1, and continuing through page 4, by deleting everything after the enacting clause and inserting the following:

"Section 1. KRS 158.297 is amended to read as follows:

(1) If, at the beginning of a school year, a board of education for a local school district provides information on immunizations, infectious disease, medications, or other school health issues to parents and guardians of students in grades six (6) through twelve (12), then the following information about meningococcal meningitis disease and its vaccine ***and human papillomavirus and its vaccine*** shall be included:

- (a) A description of causes, symptoms, and means of transmission;
- (b) A list of sources for additional information; and
- (c) Related recommendations issued by the National Centers for Disease Control and Prevention.

(2) The Department of Education, in cooperation with the Department for Public Health, shall develop and make available the information about meningococcal meningitis disease and its vaccine ***and human papillomavirus and its vaccine*** to local school districts as required under subsection (1) of this section in an efficient manner that shall include posting the information on its Web site.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Public Health shall recommend that all female students enrolled in public and private middle schools, as defined in KRS 157.320, and their parents or guardians consider voluntary vaccination with the human papillomavirus vaccine after consultation with their health care providers.

(2) The Department for Public Health shall develop a public awareness, education, and prevention program on human papillomavirus and its vaccine that shall include, but not be limited to:

- ***(a) Enhanced health and abstinence education;***
- ***(b) Information on risk factors associated with human papillomavirus prevention and transmission;***
- ***(c) Education on the importance of clinical cancer screenings and pap tests;***
- ***(d) Clinical recommendations for human papillomavirus vaccine;***
- ***(e) Information on universal access to human papillomavirus vaccine; and***
- ***(f) Information on the most recent scientific and medical information on the prevention, diagnosis, treatment, and therapeutic decision-making on human papillomavirus.***

(3) The department may make available on its Internet Web site protocols, guidelines, and materials for the human papillomavirus program that increase the understanding of the disease among general and high-risk populations.

(4) The program may utilize education materials developed by health-related companies, community-based or national advocacy organizations, and the Centers for Disease Control and Prevention.

(5) The department shall report on the human papillomavirus public awareness, education, and prevention program to the Interim Joint Committee on Health and Welfare by December 1, 2007, and every six (6) months thereafter, or upon request of the committee.".

Floor Amendment No. 2 to the Committee Substitute to **HB 120**, by Representative Wayne:

HB 120, On page 12, line 24, after "***required fee***" by inserting "***of at least fifty dollars ($50)***" in lieu thereof.

On page 12, lines 24 and 25, by deleting "***according to authorization in the state budget document***" and inserting "***by promulgation of administrative regulation***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representative Crenshaw

HB 6, Representative Clark

HB 16, Representative Palumbo

HB 23, Representative Moore

HB 51, Representative Tilley

HB 59, Representative Tilley

HB 62, Representatives Pasley and Yonts

HB 64, Representatives Palumbo and Yonts

HB 75, Representative Burch

HB 82, Representative Vincent

HB 92, Representative Glenn

HB 94, Representative Moore

HB 105, Representative Tilley

HB 124, Representative DeWeese

HB 130, Representative C. Belcher

HB 136, Representative Hoffman

HB 139, Representative Bell

HB 152, Representative Harmon

HB 167, Representatives Tilley, Moore, and Butler

HB 175, Representative Owens

HB 187, Representatives Pullin, Sims, Moore, McKee, Higdon, Draud, Rand, Adams, Dossett, and Tilley

HB 197, Representative DeCesare

HB 206, Representative Gray

HB 214, Representatives Nesler, Horlander, and Vincent

HB 218, Representative Dossett

HB 226, Representative Yonts

HB 237, Representatives Baugh, Weston, Meeks, Siler, Henley, Henderson, and Butler

HB 244, Representative Moore

HB 278, Representative Montell

HB 280, Representative Tilley

HB 291, Representatives Santoro and Moore

HB 293, Representative Dossett

HB 299, Representatives Kerr, Santoro, and Koenig

HB 319, Representative Clark

HB 337, Representatives Watkins, Nesler, Higdon, and Floyd

HB 341, Representative Keene

HB 343, Representatives Ballard, Siler, Butler, Miller, Dossett, Tilley, Greer, Wuchner, Riner, Santoro, Pullin, Henley, Henderson, Napier, DeCesare, Cherry, Bratcher, Osborne, Spencer, Thompson, Vincent, Firkins, Montell, Glenn, Stewart, Baugh, and Kerr

HB 345, Representative Palumbo

HB 354, Representative Moore

HB 357, Representatives Greer and Higdon

HB 366, Representative Tilley

HB 367, Representative Clark

HB 385, Representative Jenkins

HB 390, Representative Wuchner

HB 400, Representative Clark

HB 402, Representative Watkins

HB 403, Representatives Greer, Bell, Rollins, Pullin, Henley, Henderson, Napier, Cherry, Collins, Edmonds, Simpson, Gray, Hoffman, Moberly, Rand, Kerr, Nesler, and Clark

HB 413, Representatives Keene, Kerr, Wuchner, and Santoro

HB 417, Representatives Cherry and Floyd

HB 430, Representative Greer

HB 437, Representative Clark

HB 443, Representative Koenig

HB 445, Representative McKee

HB 455, Representative Koenig

HB 457, Representative Koenig

HB 460, Representatives Farmer, Thompson, and Embry

HB 462, Representative Koenig

HB 469, Representative Gray

HB 500, Representatives Spencer and Collins

HCR 47, Representative Comer

HCR 120, Representative Palumbo

HJR 13, Representatives Cherry and Westrom

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 352, Representative Crimm

Announcements

Majority Caucus, 30 minutes upon adjournment, Room 171

Committee on Economic Development, 8:00 a.m., Thursday, February 15, 2007, Room 171

Committee on Tourism Development and Energy, 10:00 a.m., Thursday, February 15, 2007, Room 131

Committee on Judiciary, 15 minutes upon adjournment, Thursday, February 15, 2007

Committee on Natural Resources and Environment, 9:00 a.m., Thursday, February 15, 2007

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Thursday, February 15, 2007.

The motion that the House adjourn until 2:00 a.m., Thursday, February 15, 2007, was adopted by voice vote.

THURSDAY, FEBRUARY 15, 2007

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Tom Troth, Hillcrest Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representatives Siler and Webb.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 14, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative B. Smith moved that he be recorded as voting "Yea" **HB 63, 71, HJR 23, HCR 12,** and **26**. Agreed.

Introduction of Bills and Resolutions

HB 500, by Representatives Combs, Adkins, Moberly, A. Smith, Hall, and Edmonds: AN ACT relating to the Local Government Economic Development Program.

HB 501, by Representative Upchurch: AN ACT relating to vote hauling.

HB 502, by Representative Sims: AN ACT relating to motor vehicle usage tax.

HJR 142, by Representative L. Belcher: A JOINT RESOLUTION directing the Transportation Cabinet to erect signs on the John Hunt Morgan Trail in the great Commonwealth.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 404, 411**

Banking and Insurance: **HB 410, 428**

Economic Development: **HB 460, 468**

Education: **HB 408, 487, HCR 141**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 432**

Health and Welfare: **HB 431, HJR 137**

Judiciary: **HB 417, 427, 477**

State Government: **HB 467**

Tourism Development and Energy: **HCR 139**

Transportation: **SJR 16**

House Floor: **HR 134, 135, 136, 140**

Report of Committees

The Committee on Labor and Industry reported **HB 305,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 305, AN ACT relating to increasing the state minimum wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than ***seven dollars ($7) an hour beginning on the effective date of this Act. If*** the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1) ***is increased in excess of the minimum hourly wage in effect under this subsection, the minimum hourly wage under this subsection shall be increased to the same amount, effective on the same date as the federal minimum hourly wage rate. If the state minimum hourly wage is increased to the federal minimum hourly wage, it shall include***[~~. The minimum wage rates required under this chapter shall be adjusted in accordance with adjustments made in the federal minimum hourly rate. The adoption required in this subsection includes~~] only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and ***shall***[~~does~~] not include other wage rates, or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, ***the increase to***[~~adoption of~~] the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter.

(2) ***Beginning July 1, 2008, and on each July 1 thereafter, the minimum hourly wage required in this section shall be adjusted based on the rate of inflation according to the Consumer Price Index for all urban consumers published annually by the United States Department of Labor, Bureau of Labor Statistics***[~~Notwithstanding the provisions of subsection (1) of this section, for any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips from patrons or others, the employer may pay as a minimum not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203. The employer shall establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in 29 U.S.C. sec. 203 was received by the employee~~].

(3) No employer shall use all or part of any tips or gratuities received by ***a tipped employee***[~~employees~~] toward the payment of the statutory minimum hourly wage as required ***in this section***[~~by 29 U.S.C. sec. 203~~]. Nothing, however, shall prevent ***tipped*** employees from entering into an agreement to divide tips or gratuities among themselves.

(4) Beginning June 15, 2008, and on each June 15 thereafter, the executive director shall make available on the department's Internet Web site the minimum hourly wage level, as adjusted by subsection (2) of this section, for the upcoming year beginning July 1.

The Committee Substitute to **HB 305** is as follows:

HB 305, AN ACT relating to increasing the state minimum wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than ***five dollars and eighty-five cents ($5.85) an hour beginning on the effective date of this Act, not less than six dollars and fifty-five cents ($6.55) an hour beginning July 1, 2008, and not less than seven dollars and twenty-five cents ($7.25) an hour beginning July 1, 2009. If*** the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1) ***is increased in excess of the minimum hourly wage in effect under this subsection, the minimum hourly wage under this subsection shall be increased to the same amount, effective on the same date as the federal minimum hourly wage rate. If the state minimum hourly wage is increased to the federal minimum hourly wage, it shall include***[~~. The minimum wage rates required under this chapter shall be adjusted in accordance with adjustments made in the federal minimum hourly rate. The adoption required in this subsection includes~~] only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and ***shall***[~~does~~] not include other wage rates, or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, ***the increase to***[~~adoption of~~] the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter.

(2) Notwithstanding the provisions of subsection (1) of this section, for any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips from patrons or others, the employer may pay as a minimum not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203. The employer shall establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in 29 U.S.C. sec. 203 was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by 29 U.S.C. sec. 203. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

The Committee on Natural Resources and Environment reported **HB 216** and **HR 73** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 216, AN ACT relating to fish and wildlife resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

In addition to the game permits issued under KRS 150.175, the commission may promulgate administrative regulations allowing the issuance of cooperator permits to individuals or entities who enroll land with the department for public hunting and meet all applicable regulatory requirements. An individual or entity that receives a cooperative permit issued under this section may sell or transfer the permit.

Section 2. KRS 150.177 is amended to read as follows:

In addition to the game permits issued under KRS 150.175, the commission may issue a special permit to an incorporated nonprofit wildlife conservation organization. The commission shall promulgate administrative regulations governing the number of special permits to be issued per year per species for which a game permit is required.~~[The commission may also promulgate regulations allowing the issuance of cooperator permits to individuals or entities who enroll land with the department for public hunting and meet all applicable regulatory requirements.]~~ An organization~~[or cooperator]~~ that receives a special permit issued under this section may sell and transfer the permit if all proceeds of the sale are used in Kentucky for wildlife management.

HR 73, A RESOLUTION requesting an evaluation of the Telecheck deer harvest check-in program and specifications for legal handguns used when taking deer.

WHEREAS, In recent years the Department of Fish and Wildlife Resources has moved from a physical check-point location for deer harvest recording to a so-called automated telephone reporting system, "Telecheck"; and

WHEREAS, this system is wholly dependent upon the accuracy and truthfulness of the individual hunter harvest log, which remains in the hunter's possession, and the telephone report based on that log; and

WHEREAS, there have been allegations that, in some cases, this system has been abused and hunters' actual harvests differ from what is reported; and

WHEREAS, this automated reporting system has not been evaluated or otherwise reviewed to determine its efficacy in reporting accurately what is occurring in the field; and

WHEREAS, present law and administrative regulations permit the use of any handgun firing center fire ammunition to harvest deer, including .25 caliber short barrel pistols; and

WHEREAS, many if not most handguns are inadequate to humanely harvest deer; and

WHEREAS, many states have statutes and regulations specifying minimum muzzle energy and barrel length for handguns used for taking deer and large game, and caliber and cartridge size and type for handgun ammunition used for taking deer and large game;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby urge and formally request that the commissioner of the Department of Fish and Wildlife Resources investigate and evaluate the efficacy and accuracy of the Telecheck reporting system and promulgate administrative regulations establishing minimum handgun requirements for taking deer and other large game in the Commonwealth.

Section 2. The House of Representatives requests that the results of the investigation and evaluation and the handgun specifications identified in Section 1 be provided in report form to the Interim Joint Committee for Agriculture and Natural Resources by November 30, 2007.

Section 3. The House of Representatives requests that the report contain information relating to deer harvest statistics and reporting, number and frequency of confirmed or unconfirmed incidents or allegations of false reporting, incidents of poaching and out of season deer kills, a detailed description of how the Telecheck and hunter harvest log system works, and any methods used or contemplated for verifying the efficacy and accuracy of Telecheck and hunter harvest logs, and minimum standards for handguns and ammunition use for legally taking deer and large game.

Section 4. The Clerk of the House is hereby directed to transmit a copy of this Resolution to the Secretary of the Commerce Cabinet and the Commissioner of the Department of Fish and Wildlife Resources.

The Committee on Tourism Development and Energy reported **HB 108,** with Committee Substitute attached thereto, **HB 319,** and **HB 430** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 108, AN ACT relating to the preservation of rock fences and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

(1) "Council" means the Kentucky Heritage Council;

(2) "Historic rock fence" means any drylaid stone fence or wall at least fifty (50) years old that was originally constructed from natural stones and without mortar;

(3) "Mortared rock fence" means any rock fence at least fifty (50) years old that was originally constructed from natural stones and mortar; and

(4) "Nonhistoric rock fence" means any rock fence constructed within the last fifty (50) years from natural stones and without mortar that the Kentucky Heritage Council certifies meets the guidelines for drystone masonry set forth by the Drystone Conservancy.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

There is hereby established in the State Treasury a rock fence preservation fund, which shall be administered by the council. The fund may receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources, to be used for reconstruction and repair of the Commonwealth's historic rock fences and mortared rock fences.

(1) Moneys deposited in the fund shall be disbursed by the State Treasurer under the Rock Fence Preservation Program established in Section 3 of this Act.

(2) Fund amounts not expended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year. Income earned from investment of the fund shall become part of the fund and shall not lapse.

(3) Amounts deposited in the fund are hereby appropriated for the purposes set forth in Sections 1 to 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) The rock fence preservation program is established and shall be administered by the council. The program shall provide funding for the preservation of historic rock fences and mortared rock fences and construction of nonhistoric rock fences.

(2) The council shall promulgate administrative regulations relating to the establishment of a grant program, including:

(a) Application and reporting procedures;

(b) Accountability criteria for grant recipients; and

(c) Grant appropriation amounts and eligible expenditures.

Section 4. KRS 171.381 is amended to read as follows:

(1) The Kentucky Heritage Council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private;[~~ and~~]

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those[~~ such~~] landmarks which possess statewide or national significance***; and***

(e) Conduct a survey and maintain a catalog of Kentucky's historic rock fences as defined in Section 1 of this Act.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor,[~~ such~~] staff as may be necessary. Any member of ***the***[~~such~~] staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into[~~ such~~] contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt[~~such~~] rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Commerce Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

(a) Development for the State Historic Preservation Program;

(b) Direction of a comprehensive statewide survey of historic properties;

(c) Nomination of historic properties to the National Register of Historic Places;

(d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

(e) Cooperation in the integration of historic preservation planning with all levels of planning;

(f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

(g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

(h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

(i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

(j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state;

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Construction expense" means actual costs of labor and materials directly used in repairing, restoring, or building;

(b) "Council" has the same meaning as in Section 1 of this Act;

(c) "Historic rock fence" has the same meaning as in Section 1 of this Act;

(d) "Mortared rock fence" has the same meaning as in Section 1 of this Act; and

(e) "Nonhistoric rock fence" has the same meaning as in Section 1 of this Act.

(2) There shall be allowed as a credit against the taxes imposed by KRS 141.020 or 141.040, and 141.0401, an amount equal to:

(a) Fifty percent (50%) of the construction expense when repairing or restoring a historic rock fence; or

(b) Thirty-five percent (35%) of the construction expense when repairing or restoring a mortared rock fence; or

(c) Twenty-five percent (25%) of the construction expense when building a nonhistoric rock fence.

(3) The credits in this section shall be claimed for the taxable year during which the expense is incurred or for the taxable year during which the project is completed.

(4) The credits allowed under subsection (2) of this section shall be applied to both the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in Section 6 of this Act.

(5) An application for credit shall be submitted to the council no later than thirty (30) days following the close of the taxable year during which the project is completed. The council shall determine if the project qualifies for the credit and shall notify the taxpayer and the Department of Revenue of the approval within ninety (90) days following the close of the calendar year.

(6) The Department of Revenue and the council may promulgate administrative regulations as needed to implement the provisions of this section.

Section 6. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

    (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

        2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

    (b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

    (c) The certified rehabilitation credit permitted by KRS 171.397;

    (d) The health insurance credit permitted by KRS 141.062;

    (e) The tax paid to other states credit permitted by KRS 141.070;

    (f) The credit for hiring the unemployed permitted by KRS 141.065;

    (g) The recycling or composting equipment credit permitted by KRS 141.390;

    (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

    (i) The coal incentive credit permitted under KRS 141.0405;

    (j) The research facilities credit permitted under KRS 141.395;

    (k) The employer GED incentive credit permitted under KRS 151B.127;

    (l) The voluntary environmental remediation credit permitted by KRS 141.418;

    (m) The biodiesel credit permitted by KRS 141.423;

    (n) The environmental stewardship credit permitted by KRS 154.48-025;[~~ and~~]

    (o) The clean coal incentive credit permitted by KRS 141.428***; and***

    (p) The rock fence credits permitted by Section 5 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

    (a) The individual credits permitted by KRS 141.020(3);

    (b) The credit permitted by KRS 141.066;

    (c) The tuition credit permitted by KRS 141.069; and

    (d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

    (a) The individual withholding tax credit permitted by KRS 141.350;

    (b) The individual estimated tax payment credit permitted by KRS 141.305; and

    (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

    (a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

    (b) The certified rehabilitation credit permitted by KRS 171.397;

    (c) The health insurance credit permitted by KRS 141.062;

    (d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~and~~]

(o) The clean coal incentive credit permitted by KRS 141.428***; and***

(p) The rock fence credits permitted by Section 5 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

Section 7. The provisions of Sections 5 and 6 of this Act shall apply for taxable years beginning on or after January 1, 2008.

The Committee Substitute to **HB 108** is as follows:

HB 108, AN ACT relating to the preservation of rock fences and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

(1) "Council" means the Kentucky Heritage Council;

(2) "Historic rock fence" means any drylaid stone fence or wall at least fifty (50) years old that was originally constructed from natural stones and without mortar;

(3) "Mortared rock fence" means any rock fence at least fifty (50) years old that was originally constructed from natural stones and mortar; and

(4) "Nonhistoric rock fence" means any rock fence constructed within the last fifty (50) years from natural stones and without mortar that the Kentucky Heritage Council certifies meets the guidelines for drystone masonry set forth by the Dry Stone Conservancy.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

There is hereby established in the State Treasury a rock fence preservation fund, which shall be administered by the council. The fund may receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources, to be used for reconstruction and repair of the Commonwealth's historic rock fences and mortared rock fences.

(1) Moneys deposited in the fund shall be disbursed by the State Treasurer under the Rock Fence Preservation Program established in Section 3 of this Act.

(2) Fund amounts not expended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year. Income earned from investment of the fund shall become part of the fund and shall not lapse.

(3) Amounts deposited in the fund are hereby appropriated for the purposes set forth in Sections 1 to 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) The rock fence preservation program is established and shall be administered by the council. The council shall seek guidance on all technical issues regarding rock fence preservation from the Dry Stone Conservancy. The program shall provide funding for the preservation of historic rock fences and mortared rock fences and construction of nonhistoric rock fences.

(2) The council shall promulgate administrative regulations in consultation with the Dry Stone Conservancy relating to the establishment of a grant program, including:

(a) Application and reporting procedures;

(b) Accountability criteria for grant recipients; and

(c) Grant appropriation amounts and eligible expenditures.

Section 4. KRS 171.381 is amended to read as follows:

(1) The Kentucky Heritage Council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private;[~~ and~~]

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those[~~ such~~] landmarks which possess statewide or national significance***; and***

(e) Conduct a survey and maintain a catalog of Kentucky's historic rock fences as defined in Section 1 of this Act.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor,[~~ such~~] staff as may be necessary. Any member of ***the***[~~such~~] staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into[~~ such~~] contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt[~~ such~~] rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Commerce Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

(a) Development for the State Historic Preservation Program;

(b) Direction of a comprehensive statewide survey of historic properties;

(c) Nomination of historic properties to the National Register of Historic Places;

(d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

(e) Cooperation in the integration of historic preservation planning with all levels of planning;

(f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

(g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

(h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

(i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

(j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state;

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

HB 319, AN ACT relating to tourism development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.536 is amended to read as follows:

(1) (a) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

(b) The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected.

(c) For all tourism attraction projects except those identified in paragraph (d) of this subsection, the term of the agreement granting the sales tax refund shall be ten (10) years.

(d) The term of the agreement granting the sales tax refund shall be twenty (20) years for a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine that is:

1. a. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and

b. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021 or the Kentucky Horse Park Commission pursuant to the provisions of KRS 148.258 to 148.320;[~~or~~]

2. ***Located on property owned by the Commonwealth and in the custody of the State Fair Board as provided in KRS 247.140; or***

3. Located on property owned or leased by the federal government and identified as a national park.

(e) This time period shall commence on the later of:

1. The final approval for purposes of the inducements; or

2. The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) (a) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(c) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs.

1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.

2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds.

(b) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(d) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or fifty percent (50%) of the approved costs.

1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.

2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through sales tax refunds.

(4) Notwithstanding subsection (3) of this section, to the extent that the tourism attraction defined in KRS 148.851 includes a lodging facility located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency, the total sales tax refund allowed to the approved company over the term of the agreement shall be the lesser of the total amount of sales tax liability or fifty percent (50%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to five percent (5%) of the approved cost. Notwithstanding the foregoing five percent (5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through the sales tax refunds.

(5) By October 1 of each year the Department of Revenue shall certify to the authority and the secretary of the Commerce Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsections (1) and (4) of this section.

(6) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(7) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this section and KRS 148.851 to 148.860.

Section 2. KRS 148.859 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company. Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) and (4) for tax years commencing on or after July 1, 2004;

(b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;

(c) The following provisions:

1. For all tourism attraction projects except a tourism attraction project identified in subparagraph 2. of this paragraph, the term shall be ten (10) years from the later of:

a. The date of the final approval of the project; or

b. The original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;

2. For a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine:

a. i. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and

ii. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021; or the Kentucky Horse Park Commission pursuant to the provision of KRS 148.258 to 148.320;[~~ or~~]

b. ***Located on property owned by the Commonwealth and in the custody of the State Fair Board as provided in KRS 247.140; or***

c. Located on property owned or leased by the federal government and identified as a national park;

the term shall be twenty (20) years from the later of the date of the final approval of the project, or the original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;

3. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the

Department of Revenue that the approved company is in compliance with this section; and

4. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:
   a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; or
   b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days; and

(d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:

1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;
2. The term of the agreement shall not be extended; and
3. The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

Section 3. This Act takes effect July 1, 2007.

HB 430, AN ACT relating to consumer telemarketing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999 and 367.990, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A live or recorded communication sent by a telephone or message sent by a facsimile machine to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;
2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;
3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or
4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A live or recorded communication sent by telephone, facsimile machine, mobile telephone, or telephone paging device in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;
2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or

3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean the following:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made to the debtor or a party to the contract in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(d) A telephone call made by the following:

1. A merchant or telemarketer located in Kentucky to a location outside of the Commonwealth of Kentucky;
2. A telephone call made by one (1) merchant to another;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator;

(11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes but is not limited to any such person that is an owner, operator, officer, director, or partner to the management activities of a business;

(12) "Publicly traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer;

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation; and

(14) "Zero call[~~"~~] list***"*** means ***the national Do Not Call Registry maintained by the United States Federal Trade Commission***[~~a list~~] containing the ***residential or wireless*** telephone numbers of the individuals that indicate their preference not to receive telephone solicitations.

Section 2. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit

when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) [~~(a)~~]Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the ***national Do Not Call Registry***[~~zero call list~~] maintained by the ***United States Federal Trade Commission***[~~Office of the Attorney General, Division of Consumer Protection. Any holder of a residential telephone number may notify the division and be placed on a zero call list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The telephone numbers of persons requesting to be on the zero call list shall remain on the list until the person rescinds his or her name from the list.~~

~~(b) The zero call list shall be updated, published, and distributed on a quarterly basis in electronic and hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each quarter each telemarketing company, telemarketer, and merchant shall be deemed to be on notice not to solicit any person whose telephone number appears on the list. The list shall be made available to requesters either on a statewide or county by county basis~~];

(16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;

(17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;

(18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or

(19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

Section 3. KRS 367.46971 is amended to read as follows:

(1) At least ten (10) days prior to doing business in this state, a telemarketing company shall ***register***[~~file~~] with the division ***by filing*** the information described below and ***paying***[~~pay~~] a filing fee of three hundred dollars ($300). A telemarketing company shall be deemed to do business in this state if the telemarketing company solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state. The information required by this section shall be submitted on a form provided by the Attorney General and shall be verified by a declaration signed by each principal of the telemarketing company, under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to KRS 367.46951 to 367.46999 shall be clearly identified and appended to the filing.

(2) Registration of a telemarketing company shall be valid for one (1) year from the effective date thereof and may be renewed annually by making the filing required by this section and paying a filing fee of fifty dollars ($50).

(3) If, prior to expiration of a telemarketing company's annual registration, there is a material change in the information required by KRS 367.46951 to 367.46999, the telemarketing company shall, within ten (10) days, file an addendum updating the information with the division. However, changes in salespersons soliciting on behalf of a telemarketing company shall be updated by filing addenda, if necessary, in quarterly intervals computed from the effective date of

registration. The addendum shall include the required information for all salespersons currently soliciting or having solicited on behalf of the telemarketing company at any time during the period between the filing of the registration, or the last addendum, and the current addendum, and shall include information on salespersons no longer soliciting for the telemarketing company as of the date of the filing of the current addendum.

(4) Upon receiving the filing and the filing fee pursuant to this section, the division shall send the telemarketing company a written confirmation of receipt of the filing. If the telemarketing company has more than one (1) business location, the written confirmation shall be sent to the telemarketing company's principal business location as identified in the telemarketing company's filing in sufficient numbers so that the telemarketing company can meet the requirements of this subsection. Within ten (10) days of receipt of the confirmation, the telemarketing company shall post in a conspicuous place at each of the telemarketing company's business locations within this state a copy of the entire registration statement which has been filed with the division. Until confirmation of receipt of filing is received and posted, the telemarketing company shall post in a conspicuous place at each of the telemarketing company's business locations within this state a copy of the first page of the registration form sent to the department. The telemarketing company shall also post in close proximity to either the confirmation of receipt of filing or the first page of the submitted registration form the name of the individual in charge of each location from which the telemarketing company does business in this state.

Section 4. KRS 367.46973 is amended to read as follows:

Each filing pursuant to KRS 367.46971 shall contain the following information:

(1) The name or names of the ***telemarketing company***[~~merchant~~], including the name under which the ***telemarketing company***[~~merchant~~] is doing or intends to do business, if different from the name of the ***telemarketing company***[~~merchant~~], and the name of any parent or affiliated organization that will engage in business transactions with purchasers relating to sales solicited by the ***telemarketing company***[~~merchant~~], or that accepts responsibility for statements made by, or acts of, the ***telemarketing company***[~~merchant~~] relating to sales solicited by the ***telemarketing company***[~~merchant~~];

(2) The ***telemarketing company's***[~~merchant's~~] business form and place of organization and, if the ***telemarketing company***[~~merchant~~] is a corporation, a copy of its articles of incorporation and bylaws and amendments to those, or, if a partnership, a copy of the partnership agreement, or if operating under a fictitious business name, the location where the fictitious name has been registered, along with a copy of the registration documents. The same information shall be included for any parent or affiliated organization disclosed pursuant to subsection (1) of this section;

(3) The complete street address of all locations designating the principal location from which the ***telemarketing company***[~~merchant~~] will be conducting business. If the principal business location of the ***telemarketing company***[~~merchant~~] is not in this state, then the ***telemarketing company***[~~merchant~~] shall also designate which of its locations within this state is its main location;

(4) A listing of all telephone numbers to be used by the ***telemarketing company***[~~merchant~~] and the address where each telephone using each of these telephone numbers is located;

(5) The name of and the office held by the ***telemarketing company's***[~~merchant's~~] officers, directors, trustees, general and limited partners, sole proprietor, and owners and the names of persons having management responsibilities in the ***telemarketing company's***[~~merchant's~~] business activities;

(6) The principal residence, the date of birth, and the driver's license number and state of issuance of each person named pursuant to subsection (5) of this section;

(7) The name and principal residence of each person the ***telemarketing company***[~~merchant~~] leaves in charge at each location in which the ***telemarketing company***[~~merchant~~] does business in this state, and the business location at which each of these persons is in charge;

(8) A statement, meeting the requirements of this subsection, as to both the ***telemarketing company***[~~merchant~~], whether a corporation, partnership, firm, association, joint venture, or any other type of business entity and as to any person identified pursuant to subsection (5) or (7) of this section who:

  (a) Has been convicted of a felony or a misdemeanor involving a violation of this article, or fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. For purposes of this paragraph, a plea of nolo contendere shall be considered a conviction;

  (b) Has had entered against him a final judgment or order in a civil or administrative action, including a stipulated judgment or order, if the complaint or petition in the civil or administrative action alleged acts constituting a violation of KRS 367.46951 to 367.46999, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property, or the use of unfair, unlawful, or deceptive business practices;

  (c) Is subject to an injunction or restrictive court order relating to business activity as the result of an action brought by a federal, state, or local public agency or unit of that agency, including, but not limited to, an action affecting any vocational license; or

  (d) Has during the previous seven (7) tax years filed in bankruptcy, been adjudged a bankrupt, been reorganized due to insolvency, or been a principal, director, officer, trustee, general or limited partner, or had management responsibilities of any other corporation, partnership, joint venture, or business entity that has so filed or was so adjudicated or reorganized, during or within one (1) year after the period that the person held that position.

The statement required by paragraphs (a), (b), and (c) of this subsection shall identify the ***telemarketing company***[~~merchant~~] or person, the court or administrative agency rendering the conviction, judgment, or order, the docket number of the matter, the date of the conviction, judgment, or order, and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, or order. For purposes of paragraph (d) of this section, the statement required shall include the name and location of the ***telemarketing company***[~~merchant~~] or person filing in bankruptcy, adjudged a bankrupt, or reorganized due to insolvency, and shall include the date thereof, the court which exercised jurisdiction, and the docket number of the matter;

(9) A list of the names, driver's license numbers and states of issuance, principal residence addresses, and telephone numbers of salespersons who solicit on behalf of the ***telemarketing company***[~~merchant~~], and any names the salesperson uses while soliciting;

(10) A description of the items the ***telemarketing company***[~~merchant~~] is offering for sale and a copy of all sales scripts the ***telemarketing company***[~~merchant~~] requires salespersons to use when soliciting prospective purchasers. If no sales script is required to be used, a statement to that effect shall be included;

(11) A copy of all sales information and literature including, but not limited to, scripts, outlines, instructions, and information regarding how to conduct telephonic sales, sample introductions, sample closings, product information, and contest or premium-award information provided by the ***telemarketing company***[~~merchant~~] to salespersons or of which the ***telemarketing company***[~~merchant~~] informs salespersons, and a copy of all written materials the ***the telemarketing company***[~~merchant~~] sends to any prospective or actual purchaser;

(12) (a) If the ***telemarketing company***[~~merchant~~] represents or implies, or directs salespersons to represent or imply, to purchasers that the purchaser will receive certain specific items, including a certificate of any type which the purchaser must redeem to obtain the item described in the certificate, or one (1) or more items among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or otherwise, the filing shall include the following:

1. A list of the items offered;
2. The actual value or worth of each item described to prospective purchasers and the basis for the valuation; and
3. The price paid by the ***telemarketing company***[~~merchant~~] to its supplier for each of these items and the name, address, and telephone number of each item's supplier;

(b) If the purchaser is to receive fewer than all of the items described by the ***telemarketing company***[~~merchant~~], the filing shall include the following:

1. The manner in which the ***telemarketing company***[~~merchant~~] decides which item each prospective purchaser is to receive;
2. The odds a single prospective purchaser has of receiving each described item;
3. The name and address of each recipient who has, during the preceding twelve (12) months, or if the ***telemarketing company***[~~merchant~~] has not been in business that long, during the period the ***telemarketing company***[~~merchant~~] has been in business, received the item having the greatest value and the item with the smallest odds of being received; and
4. All rules, regulations, terms, and conditions a prospective purchaser must meet in order to receive the item; and

(13) If the ***telemarketing company***[~~merchant~~] is offering an investment, business, or employment opportunity, the filing shall include the following:

(a) The number of consumers or investors who have participated to date;

(b) The actual experience of the consumers or investors as measured by standards used in the sales presentations; and

(c) If the opportunity is so recent that no actual performance experience exists, that fact shall be disclosed in all sales presentations, and no other representation of performance shall be made in sales presentations.

Section 5. KRS 367.46994 is amended to read as follows:

(1) [~~Any person may apply to the Office of the Attorney General, Division of Consumer Protection, to have his or her residential telephone number listed on the zero call list. The Office of the Attorney General shall provide automated telephone dial-in registration and shall collect only the home phone number from the applicant deemed to be required to administer the zero call list. The Office of the Attorney General shall promulgate administrative regulations to:~~

~~(a) Provide for automatic telephone number referral from the incumbent local exchange carrier or the competitive local exchange carrier to the Office of the Attorney General for the purpose of updating the zero call list to reflect an applicant's change of address or an applicant's termination of telephone service; and~~

~~(b) Develop, modify, or administer the zero call list in such a way as to permit interface with any national registry~~

~~established by the Federal Trade Commission or the Federal Communications Commission for the purpose of including in Kentucky's zero call list that part of the national database that relates to the Commonwealth or release to the national registry applicants on the zero call list that indicate a preference to be listed on a national registry.~~

~~(2) The Attorney General shall place the residential telephone number provided by the applicant on the list. The Attorney General may update the information on the list as provided in subsection (1) of this section, but shall not remove the information unless requested to do so in writing by the applicant, or upon receiving notice that the given telephone number is no longer held in the name of the applicant.~~

~~(3)~~]Persons whose telephone numbers appear on the zero call list shall not receive telephone solicitations except in accordance with the provisions of KRS 367.46951 to 367.46999.

[~~(4) Any person that applies to the Office of the Attorney General to be placed on the zero call list shall be informed about how to add his or her name or telephone number to company-specific and industry-wide no solicitation call lists, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS).~~]

(2)[~~(5)~~] Information contained in a database established for the purpose of administering the zero call list shall be used only for the purpose of implementing the zero call program in conformance with KRS 367.46951 to 367.46999.

[~~(6) The zero call list shall be available at no cost to any merchant or telemarketing company that is required to consult the list. In addition to the formats described in KRS 367.46955(15), the list shall be made available in a format for electronic download from the Internet Web page of the Office of the Attorney General. The Attorney General shall make the electronic list available in a format that is searchable by area code and by local exchange. The electronic format shall be arranged with the last four digits of the telephone numbers in ascending order. The electronic list shall also be searchable by individual number and shall be downloadable in at least five (5) of the most common commercially available data management program formats. Hard copies of the zero call list shall be arranged by area code and local exchange with the last four digits in ascending order. The Office of the Attorney General shall develop procedures to assure that:~~

~~(a) The merchant or telemarketing company requesting the list shall maintain the confidentiality of the information on the list; and~~

~~(b) The merchant or telemarketing company shall use the list only for the purpose of preventing telephone solicitation calls to persons whose telephone numbers appear on the list~~].

(3)[~~(7)~~] The Kentucky Public Service Commission shall produce[~~ a~~] consumer education ***materials***[~~pamphlet~~] that:

(a) Describes[~~ the changes made in the year 2002 to~~] Kentucky's telemarketing laws[~~ including the creation of the zero call list~~];

(b) Describes the consumer's rights and responsibilities regarding the receipt of telephone solicitation;

(c) Explains how consumers can apply to be placed[~~ on the zero call list and~~] on any federal do not call registry established by the Federal Communications Commission ***and***[~~or~~] the Federal Trade Commission;

(d) Explains how to apply to be placed on company-specific and industrywide no solicitation calls list, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS); and

(e) Describes how a consumer can file a complaint if the consumer receives calls after being placed on the ***Do Not Call Registry established by the Federal Communications Commission and the Federal Trade Commission***[~~zero call list~~].

(4)[~~(8)~~] ***The***[~~At least once a year, the~~] Public Service Commission shall require that***, once a year, telephone companies under the jurisdiction of the Public Service Commission shall include the customer education material or portions thereof, at the discretion of the companies, in either the billing inserts, billing messages, or in the Customer Guide pages of their telephone directories***[~~the pamphlet be included in the billing inserts of the telephone companies under the Public Service Commission's jurisdiction~~].

Section 6. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or

withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year knowingly and willfully violates KRS 367.46955(15)~~[(a)]~~ by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office

of the Attorney General, Division of Consumer Protection.

(24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list identified in KRS 367.46955(15) for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

(25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars ($5,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.

(c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.

(d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

The Committee on State Government reported **HB 4, HB 8, HB 130, HB 212,** with Committee Substitute attached thereto, **HB 228, HB 293, HB 295, HB 325, HB 386, HB 400, HB 418,** with Committee Substitute attached thereto, and **HJR 118** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission ***does not reflect gender equity or*** reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a ***male or female so as to achieve as much as possible gender equity or a*** member of the minority group even if the list of nominees for a vacancy does not include a member of the ***particular gender needed to achieve gender equity or a member of the*** minority group.

(4) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution.

(5) When a board, commission, or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

HB 8, AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) "Committee" means the Government Contract Review Committee of the Legislative Research Commission;

(b) "Contracting body" means ***any***[~~each~~] state board, bureau, ***cabinet,*** commission, department, division, authority, *postsecondary institution*~~[university, college]~~, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c) "Governmental emergency" means an unforeseen event or set of circumstances that creates an emergency condition as determined by the committee~~[by promulgation of an administrative regulation]~~;

(d) "Memorandum of agreement" means any~~[memorandum of]~~ agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, privatization contract, *grant and research agreement,* or similar *arrangement*~~[device]~~ relating to services between a *contracting body*~~[state agency]~~ and any other governmental *entity*~~[body]~~ or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. It includes agreements by regional cooperative organizations formed by local boards of education or other public educational institutions for the purpose of providing professional educational services to the participating organizations and agreements with Kentucky Distinguished Educators pursuant to KRS 158.782. *The following agreements shall be exempt from routine review by the committee, but shall be reported in a format and time frame as determined by the committee*~~[This definition does not apply to]~~:

1. Agreements between the Transportation Cabinet and any political subdivision of the Commonwealth for road and road-related projects;

2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;

3. Agreements between state agencies as required by federal or state law;

4. Agreements between state agencies and *postsecondary institutions*~~[state universities or colleges]~~ and agreements between *postsecondary institutions*~~[state universities or colleges]~~ and employers of students in the Commonwealth work-study program sponsored by the Kentucky Higher Education Assistance Authority;

5. Agreements involving child support collections and enforcement;

6. Agreements with public utilities, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health and Family Services, and transit authorities;

7. Nonfinancial agreements;

8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS 224.60-140;

9. Exchanges of confidential personal information between agencies;

10. Agreements between state agencies and rural concentrated employment programs;~~[or]~~

11. *Agreements between a contracting body and another governmental entity for over one million dollars ($1,000,000), regardless of type or characterization;*

12. Agreements between contracting bodies and federal agencies for grant and research projects; and

13. Any other agreement that the committee deems *appropriate*~~[inappropriate]~~ for *receipt of reports*~~[consideration]~~;

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one (1) contract; and

(f) "Personal service contract" means an agreement whereby an individual, firm, partnership, or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at a price agreed upon. It includes~~[all]~~ *agreements or*~~[price]~~ contracts for personal *or professional* services between a governmental body or political subdivision of the commonwealth and any *individual, firm, partnership, or corporation*~~[other entity]~~ in any amount *and contracts with private entities for the provision of group health care for public employees*. *The following contracts shall be exempt from routine review by the committee, but shall be reported in a format and time frame as determined by the committee*~~[This definition does not apply to]~~:

1. *Contracts*~~[Agreements]~~ between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. *Contracts*~~[Agreements]~~ with public utilities, *transit authorities,* foster care parents, *and* providers of direct Medicaid health care to individuals*; however,*~~[except for]~~ any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health and Family Services *shall comply with the provisions of KRS 45A.690 to 45A.725*~~[, individuals performing homemaker services, and transit authorities]~~;

3. ***Contracts***[~~Agreements~~] between ***postsecondary institutions***[~~state universities or colleges~~] and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority ***and agreements between postsecondary institutions and health care providers for delivery or receipt of health care services***;
4. ***Contracts***[~~Agreements~~] between a state agency and rural concentrated employment programs;
5. ***Contracts***[~~Agreements~~] between the State Fair Board and judges, officials, and entertainers contracted for events promoted by the State Fair Board;[~~ or~~]
6. ***Contracts with a private entity for over one million dollars ($1,000,000), regardless of type or characterization;***
7. ***Contracts between postsecondary institutions and private entities for grant and research projects; and***
8. Any other contract that the committee deems ***appropriate***[~~inappropriate~~] for ***receipt of reports.***[~~consideration;~~]

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract or memorandum of agreement valid.

Section 2. KRS 45A.695 is amended to read as follows:

(1) Except as provided in subsection (8) of this section, no one shall begin work on a personal service contract entered into by any contracting body, until notification of the personal service contract is filed with the committee. Each personal service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each personal service contract and memorandum of agreement shall be filed with the committee prior to the effective date and shall be accompanied by a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically. The proof of necessity form shall document:

- (a) The need for the service;
- (b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;
- (c) The total projected cost of the contract or agreement and source of funding;
- (d) The total projected duration of the contract;
- (e) Payment information, in detail;
- (f) In the case of memoranda of agreement or similar device, the reason for exchanging resources or responsibilities; and
- (g) Such other information as the committee deems appropriate.

(3) ***Except as provided for in Section 6 of this Act:***

- ***(a) For an amount over twenty-five thousand dollars ($25,000),*** adequate notice of the need for a personal service contract shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications***;***
- ***(b) For an amount of twenty-five thousand dollars ($25,000) and under, adequate notice of the need for a personal service contract requires, whenever feasible, solicitation of at least three (3) quotes for the needed service. Any determination of unfeasibility shall be in writing and submitted to the secretary of the Finance and Administration Cabinet and to the committee. The secretary of the Finance and Administration Cabinet and the committee may review a determination of unfeasibility by a contracting body***.

(4) The head of the contracting body or his designee may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or his designee, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The committee shall maintain a record or have readily accessible records of the date on which each personal service contract and memorandum of agreement was received and shall maintain or have access to electronic or paper files on all personal service contracts and memoranda of agreement. Except for records exempt from inspection under KRS 61.870 to 61.884, all personal service contracts and memoranda of agreement shall be made available for public inspection.

(7) Payment on personal service contracts and memoranda of agreement submitted to the committee for approval shall not be made for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet. All personal service contracts and memoranda of agreement shall contain a provision that stipulates that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority.

(8) In the event of a governmental emergency as defined under KRS 45A.690, work may begin prior to filing notification of the personal service contract with the committee, if the secretary of the Finance and Administration Cabinet or his designee determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and the normal process will not accommodate the governmental emergency. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the committee.

(9) If a governmental emergency exists as defined under KRS 45A.690 and work is authorized to begin on a personal service ***contract***[~~contact~~] immediately, a copy of a statement, approved by the secretary of the Finance and Administration Cabinet or his designee, setting forth in detail the nature of the emergency shall be filed with the committee, along with a copy of the personal service contract.

Section 3. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts in aggregate amounts of ***twenty-five thousand dollars ($25,000)***[~~ten thousand dollars ($10,000)~~] or less during any one (1) fiscal year shall be exempt from routine review by the committee***, but***[~~ and~~] shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes only. The committee shall examine all personal service contracts in aggregate amounts of ***twenty-five thousand dollars ($25,000)***[~~ten thousand dollars ($10,000)~~] or less submitted more than thirty (30) days after the effective date. The committee may periodically examine the informational copies of personal service contracts in aggregate amounts of ***twenty-five thousand dollars ($25,000)***[~~ten thousand dollars ($10,000)~~] or less and may request agency participation in discussions relative to their contracts or payments. The provisions of this subsection shall not apply to price contracts for personal services.

(2) Memoranda of agreement[~~ and price contracts for personal services~~] in aggregate amounts of fifty thousand dollars ($50,000) or less during in any one ***(1)*** fiscal year shall be exempt from routine review by the committee***, but***[~~ and~~] shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes only. The committee shall examine all memoranda of agreement[~~ and price contracts for personal services~~] in aggregate amounts of fifty thousand dollars ($50,000) or less submitted more than thirty (30) days after the effective date. The committee may periodically examine memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less and may request agency participation in discussions relative to their agreements or payments.

(3) If a personal service contract of ***twenty-five thousand dollars ($25,000) or*** less [~~than ten thousand dollars ($10,000)~~] is amended to the extent the amended total of the contract exceeds ***twenty-five thousand dollars ($25,000)***[~~ten thousand dollars ($10,000)~~] per fiscal year per contractor, the amended contract shall be placed on the agenda for the committee's routine review. The provisions of this subsection shall not apply to price contracts for personal services.

(4) If a memorandum of agreement ***of***[~~or price contract for personal services of less than~~] fifty thousand dollars ($50,000) ***or less*** is amended to the extent the amended total of the agreement or contract exceeds fifty thousand dollars ($50,000) per fiscal year per ***contracting***[~~governmental~~] body, the amended agreement[~~ or contract~~] shall be placed on the agenda for the committee's routine review.

Section 4. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent committee of the Legislative Research Commission to be known as the Government Contract Review Committee. The committee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. Any vacancy that may occur in the membership of the committee shall be filled by the appointing authority who made the original appointment.

(2) On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. A majority of the entire membership of the Government Contract Review Committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership. The members of the committee shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the committee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All proposed personal service contracts and memoranda of agreement received by the Legislative Research Commission

shall be submitted to the committee to:

(a) Examine the stated need for the service;

(b) Examine whether the service could or should be performed by state personnel;

(c) Examine the amount and duration of the contract or agreement; and

(d) Examine the appropriateness of any exchange of resources or responsibilities.

(5) If the committee determines that ***a personal service***[~~the~~] contract, ***memorandum of***[~~service or~~] agreement, ***or***[~~other than an~~] emergency ***request***[~~contract approved by the secretary of the Finance and Administration Cabinet or his designee,~~] is not needed or ***is*** inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or responsibilities ***is***[~~are~~] inappropriate, the committee shall ***forward***[~~attach~~] a written notation of the reasons for its disapproval or objection to the ***secretary of the Finance and Administration Cabinet. Upon disapproval or objection, the*** personal service contract, [~~or~~] memorandum of agreement, ***or emergency request shall be suspended, no further services shall be authorized, and no further payments shall be made***[~~and shall return the personal service contract or memorandum of agreement to the secretary of the Finance and Administration Cabinet or his designee. The committee shall act on a personal service contract or memorandum of agreement submitted to the Legislative Research Commission within forty-five (45) days of the date received~~].

(6) Upon receipt of the committee's disapproval or objection, ***the secretary of the Finance and Administration Cabinet shall make a determination***[~~to a personal service contract or memorandum of agreement, the secretary of the Finance and Administration Cabinet or his designee shall determine~~] whether the personal service contract, [~~or~~] memorandum of agreement, ***or emergency request*** shall:

(a) Be revised to comply with the objections of the committee;

(b) Be canceled and, if applicable, payment allowed for services rendered[~~under the contract or amendment~~]; or

(c) Remain effective, ***notwithstanding the disapproval or objection of the committee***[~~as originally approved~~].

(7) The secretary of the Finance and Administration Cabinet[~~or his designee~~] shall notify the committee of the action taken on ***items***[~~personal service contracts and memoranda of agreement~~] disapproved or objected to within ten (10) days from the date ***they***[~~the personal service contracts or memoranda of agreement~~] were reviewed by the committee.

(8) ***No determination required to be made by the secretary of the Finance and Administration Cabinet pursuant to this section shall be delegated except, concerning any institution of higher education that has elected to utilize the procurement procedures established pursuant to KRS 164A.575, any determination of such institution's contract or agreement, which has been disapproved or objected to by the committee pursuant to subsection (5) of this section, shall be rendered by the president of the university and shall not be delegated***[~~Contracting bodies shall make annual reports to the committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to personal service contracts and memoranda of agreement submitted by the secretary of the Finance and Administration Cabinet or his designee~~].

Section 5. KRS 45A.725 is amended to read as follows:

(1) The[~~Government Contract Review~~] committee may***:***

(a) Determine appropriate format and time frame for reporting personal service contracts and memoranda of agreement;

(b) Select for further review, any contract or agreement submitted for review or reported by any contracting body;

(c) Establish policies and procedures***;***[~~concerning the manner and form of notification~~] and

(d) Determine the documentation to accompany[~~the~~] proposed personal service ***contracts, memoranda***[~~contract or memorandum~~] of agreement, ***and emergency requests***.

(2) Nothing in this ***chapter***[~~code~~] shall prohibit the committee from accepting personal service contracts, [~~or~~] memoranda of agreement, ***or other documents*** through the use of electronic instrumentalities.

Section 6. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;

(g)[~~For personal service contracts executed pursuant to KRS 45A.690 to 45A.725; and~~

~~(h)~~] For agricultural products in accordance with KRS 45A.645***; and***

(h) For contracts between purchasing agencies and risk-bearing organizations responsible for Medicaid managed health care services that are approved through a waiver authorized by the federal government, at the discretion of the secretary of the Cabinet for Health and Family Services.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

HB 130, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.185 is amended to read as follows:

(1) The Office of Vocational Rehabilitation is hereby created within the Education Cabinet, Department of Workforce Investment. The office shall consist of an executive director and those administrative bodies and employees provided or appointed pursuant to law. The office shall be composed of the Division of Program Services and the Division of the Carl D. Perkins ***Vocational Training***[~~Rehabilitation~~] Center. Each division shall be headed by a director appointed by the secretary of the Education Cabinet under the provisions of KRS 12.050, and shall be composed of organizational entities as deemed appropriate by the secretary of the Education Cabinet.

(2) The Office of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.

(3) The office shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.

(4) The chief executive officer of the office shall be the executive director of the Office of Vocational Rehabilitation. The executive director shall be appointed by the secretary of the Education Cabinet under the provisions of KRS 12.050. The executive director shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the office and its employees, and shall be responsible for carrying out the programs and policies of the office.

(5) Except as otherwise provided, the office shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The office shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The Office of the Secretary of the Education Cabinet is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.

(6) Employees under the jurisdiction of the Office of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

Section 2. KRS 167.250 is amended to read as follows:

The chief state school officer may provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the Department of Education for the transportation of members of the student bodies of the Kentucky School for the Blind, the Kentucky School for the Deaf, and the ***Carl D. Perkins Vocational Training Center***[~~Eastern Kentucky Comprehensive Rehabilitation Center at Thelma~~]. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the chief state school officer designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 3. The General Assembly hereby confirms Executive Order 2006-1438 dated November 20, 2006, relating to changing the name of the Carl D. Perkins Rehabilitation Center in the Department of Workforce Investment, Education Cabinet, to the Carl D. Perkins Vocational Training Center.

HB 212, AN ACT relating to a state employee sick leave bank.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.196 is amended to read as follows:

As used in ***this section,*** KRS 18A.197***, and Sections 2 and 3 of this Act,*** unless the context requires otherwise:

(1) ***"Eligibility date"means the date the member exhausts all accumulated sick, compensatory, and annual leave;***

(2) "Employee" means any employee of the Commonwealth of Kentucky who is entitled to accrue sick leave and for whom accurate leave records are maintained;~~[and]~~

(3)~~[(2)]~~ ***"Member" means any state employee who has voluntarily opted to become a participant in the Sick Leave Bank Program by making the initial donation of the minimum number of days necessary and continues to maintain membership in the bank by donating any necessarily assessed number of days as deemed necessary by the board of trustees to ensure its solubility;***

(4) "Sick leave" means a designated amount of compensated leave accumulated and used by the employee pursuant to standards set forth in administrative regulations;

(5) "Sick Leave Bank" or "bank" means a system of accounting for voluntarily pooled and irrevocably donated accumulated personal sick leave, which is collected for the purpose of providing sick leave to members of the program who have suffered a personal illness, surgery, disability, or quarantine and whose leave balances have been exhausted;

(6) "Sick Leave Bank trustees" or "trustees" means those persons appointed to govern the activities of the Sick Leave Bank pursuant to Sections 2 and 3 of this Act; and

(7) "State agency" or "agency" means any agency of the executive, legislative or judicial branch of the state government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The state employee Sick Leave Bank is hereby created and attached to the Personnel Cabinet for administrative purposes. The Sick Leave Bank shall be available to all employees who choose to participate and meet the requirements established in Section 3 of this Act. The purpose of the bank shall be to provide emergency sick leave to member employees who have suffered a disability due to an injury, an unplanned personal illness, surgery, or medical condition requiring a prolonged absence from the work place. Employees shall only be eligible to receive sick leave from the bank if the employee has been a contributing member of the Sick Leave Bank pursuant to Section 3 of this Act and after all sick, annual, and compensatory leave balances have been exhausted.

(2) The state employee Sick Leave Bank shall only become operational upon petition to the secretary of the Personnel Cabinet by at least one hundred (100) employees who meet the guidelines established in Section 3 of this Act.

(3) The bank shall be governed by a board of trustees. The board shall be composed of the following seven (7) members:

(a) Secretary of the Personnel Cabinet or a designee;

(b) Secretary of the Finance and Administration Cabinet or a designee;

(c) State Treasurer or a designee;

(d) Two (2) members of the state Personnel Board who were elected by classified employees pursuant to KRS 18A.0551; and

(e) Two (2) classified Personnel Cabinet branch managers who shall be appointed by the state Personnel Board and serve four (4) year terms. Upon completion of the four (4) year term, the board may reappoint the branch manager to serve another term. Upon the resignation of the branch manager from the board of trustees, the board shall fill the appointment and the newly appointed branch manager shall serve the remainder of the unexpired term.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The state employee Sick Leave Bank shall operate as follows:

(1) All employees of state government who meet the regulatory requirements established by the secretary pursuant to KRS 18A.110 regarding sick leave accrual, have been employed by state government for twelve (12) consecutive months immediately preceding application for participation, are in leave accrual status, and have a sick leave balance of at least six (6) days as of October 31 of the current enrollment year shall be eligible to participate in the program.

(2) State employees who elect to participate in the program shall do so through the application process during the months of August, September, and October of each year. Applications shall be made on forms approved by the board of trustees and made available to state employees by the Personnel Cabinet.

(3) A member is considered to have applied and filed in a timely manner if the application for Sick Leave Bank benefits is submitted no earlier than two (2) weeks prior, but no later than thirty (30) days after, a member's eligibility date, absent any extraordinary circumstances. If a member's application is received more than thirty (30) days after the member's eligibility date and no extraordinary circumstances are found, the application for benefits shall be denied and no further applications for benefits regarding that specific illness or injury shall be accepted.

(4) Any state employee electing to participate in the bank shall initially have the equivalent of four (4) days of sick leave deducted from his or her accumulated sick leave account and donated to the bank. Each subsequent year, each member who has already made the initial contribution to the bank shall have one (1) day of sick leave deducted on October 1. The board of trustees shall reserve the right to determine if the bank has a sufficient balance and may suspend the annually mandated deduction.

(5) All donations to the Sick Leave Bank shall be nonrefundable and nontransferable.

(6) At any time the number of days in the Sick Leave Bank is less than one hundred (100), or one (1) day per member if there are more than one hundred (100) members, or at any other time deemed advisable, the board of trustees shall assess each member one (1) or more days of accumulated sick leave. For any member who is not in leave accruing status and does not have sufficient accumulated sick leave available to meet the obligation, the first earned leave days shall be donated as they are accrued by the member. It is the sole responsibility of the member to satisfy the assessment within one (1) year or the member shall lose the right to membership and all of the benefits associated with it.

(7) The Sick Leave Bank trustees shall establish the criteria for distributing sick leave from the bank, hear appeals regarding denials of requests for sick leave, and prescribe the form and manner of participation in the bank.

(8) The Division of Employee Benefits within the Personnel Cabinet shall be responsible for granting or denying all initial requests for sick leave to be distributed from the Sick Leave Bank. The initial decision shall occur within ten (10) calendar days from receipt of all necessary documentation.

(9) All appeals to the Sick Leave Bank trustees shall be filed with the Division of Employee Benefits within the Personnel Cabinet within fifteen (15) calendar days from receipt of a determination.

(10) Members of the Sick Leave Bank shall be eligible to make application to the bank for sick leave on February 1 following enrollment. All applications to the bank shall be on forms approved by the board of trustees of the bank.

(11) Leave grants from the bank shall not be more than twenty (20) consecutive days for which the individual member would have otherwise lost pay. A member may receive a maximum of ninety (90) days from the Sick Leave Bank as a result of an accident, illness, or an illness related to, resulting from, or recurring from a previously diagnosed illness for which Sick Leave Bank benefits were granted.

(12) Grants of sick leave from the bank shall not exceed ninety (90) days within any twelve (12) month period. The initial twelve (12) month period shall begin on the date the member first received a benefit from the Sick Leave Bank and shall extend twelve (12) months forward from that date. A new twelve (12) month period shall begin the first time Sick Leave Bank benefits are begun after completion of the pervious twelve (12) month period.

(13) A member shall not initially receive any sick leave from the bank until after having exhausted all accumulated sick, annual, and compensatory leave and after having been without pay status for five (5) consecutive days.

(14) Any application for sick leave from the Sick Leave Bank shall require a withdrawal request application completed by the member. All withdrawal request applications shall be completed by the member and forwarded to the member's agency personnel office.

(15) A medical certification form shall be completed in its entirety by the current attending medical doctor or surgeon at the time of application. All medical certification forms shall be forwarded by the medical office directly to the Sick Leave Bank. Medical certification forms received directly from anyone other than the medical office shall not be accepted by the Sick Leave Bank. The medical certification form shall be based on the timeline as established in subsection (12) of this section. The treatment visit shall be as close as possible to the date the member exhausts all leave balances. A treatment visit may include a visit while in the hospital or the date of surgery.

(16) Members may submit subsequent applications for extensions of sick leave grants before or after prior grants expire. Any subsequent applications for benefits relating to the same injury or illness shall be based on a follow-up treatment visit and shall require a withdrawal request application and a medical certification form. The medical certification form shall be completed by the current medical doctor or surgeon or by a nurse practitioner or physician's assistant working directly under the supervision of the medical doctor or surgeon. All medical certification forms shall be forwarded by the medical office directly to the Sick Leave Bank. Any medical certification forms received directly from anyone other than the medical office shall not be accepted by the Sick Leave Bank.

(17) The member shall have exhausted all Sick Leave Bank benefits prior to being eligible to receive any donated sick leave. Members who are temporarily disabled due to an injury or illness and have received the maximum ninety (90) days pursuant to subsection (11) or (12) of this section shall continue to submit withdrawal request applications and medical certification forms from follow-up treatment visits prior to approval and use of donated sick leave.

(18) If a member becomes physically or mentally unable to submit a request to the Sick Leave Bank for use of donated sick leave days, an immediate family member or the family's council may file the request.

(19) Grants of sick leave from the bank shall not be made to any member on account of elected surgery, illness of any family member, while the member is receiving income from other employment, or during any period in which the member is receiving disability benefits from Social Security, the state retirement plan, workers' compensation benefits, or any other employment.

(20) Leave grants from the bank for conditions determined to be pre-existing shall not be eligible for Sick Leave Bank benefits until twelve (12) months following the effective date of the employee's membership.

(21) The board of trustees or a designee of the board may require a second medical opinion concerning any member's application for benefits.

(22) A member who sustains an injury or illness in the workplace shall submit a workers' compensation claim for lost time and receive a determination prior to requesting sick leave from the Sick Leave Bank.

(a) If the workers' compensation claim is denied, a request for Sick Leave Bank benefits shall be considered.

(b) If the workers' compensation claim is approved, a request for Sick Leave Bank benefits shall not be considered.

(23) Members who received lost time or a settlement for future lost time based on a workers' compensation claim from the state or from other employment shall not be eligible for Sick Leave Bank benefits for any claims involving the work-related injuries or illnesses.

(24) Sick Leave Bank benefits shall terminate upon the date that the member is released to return to work, even if certain restrictions apply. If a member returning to work with medical restrictions is prohibited by the employing agency, the member shall be eligible to continue receiving benefits if all other eligibility requirements are met.

(25) Sick leave used from the Sick Leave Bank shall not constitute creditable service for sick and annual leave accrual or for seniority purposes.

(26) A member shall lose the right to membership and to obtain the benefits of the Sick Leave Bank by:

(a) Resignation or termination of employment with the Commonwealth of Kentucky;

(b) Transferring to any state agency or institution that does not accrue leave in accordance to administrative regulations;

(c) Changing from full-time to part-time employment status;

(d) Cancellation of participation on June 30 of any year;

(e) Refusal to honor assessments from the board of trustees in order to maintain sufficient leave balance levels within the bank; or

(f) Retirement.

(27) Upon written notification from a member to the trustees, the member may withdraw from bank participation on any June 30. Membership withdrawal shall result in forfeiture of all days contributed to the bank.

(28) Upon a finding by the Sick Leave Bank administrator of any material misrepresentation of facts by a member in making application for use of sick leave from the Sick Leave Bank, the board of trustees may vote to expel or deny benefits to the member.

(29) Any member who receives any Sick Leave Bank benefits through the use of any material misrepresentation of facts shall be liable for the reimbursement of all salary and benefits expended by the bank. All members shall consent to payroll deduction for the reimbursement of Sick Leave Bank benefits expended through the use of any material misrepresentation of facts.

(30) In the event that the Sick Leave Bank is dissolved, the total number of days still deposited within the bank shall be distributed to participating members and credited to the employee's personal sick leave balances in proportion to the number of days each has contributed individually. All days returned under this subsection and credited to the individual member's balance and shall be rounded to the nearest one-half (1/2) day.

Section 4. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Personnel Cabinet the following offices, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment. The Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the

authority's board of directors:

(a) Office of the Secretary, which shall be responsible for the administration and coordination of the following programs:

1. The state Equal Employment Opportunity Program;

2. The state Minority Management Program; and

3. The state's affirmative action plan established in KRS 18A.138.

Kentucky Public Employees Deferred Compensation Authority shall be attached to the Office of the Secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of finance and administration, ex officio; the secretary of personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A;

(b) Department for Personnel Administration, composed of the:

1. Division of Employee Management, which shall be responsible for payroll, records, classification, compensation, and performance management functions. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 to 18A.1132 and shall monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA). The division shall:

a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;

b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;

c. Maintain plans of classification and compensation for state service and review and evaluate the plans; and

d. Coordinate and implement the employee performance evaluation systems throughout state government;

2. Division of Staffing Services, which shall be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall:

a. Operate a centralized applicant and employee counseling program;

b. Operate, coordinate, and construct the examination program for State employment;

c. Prepare registers of candidate employment; and

d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program;

(c) Office for Employee Relations, composed of the following divisions:

1. Division of Employee Benefits, which shall consist of the following:

a. Workers' Compensation Program pursuant to KRS 18A.375;

b. Life Insurance Program pursuant to KRS 18A.205 to KRS 18A.220;

c. Sick leave Sharing Program, pursuant to KRS 18A.197;

d. Annual Leave Sharing Program, pursuant to KRS 18A.203;

e. Health and Safety Programs (OSHA);~~[and]~~

f. Employee Assistance Program; ***and***

g. Sick Leave Bank, pursuant to Sections 2 and 3 of this Act.

2. Division of Communications and Recognition, which shall:

a. Communicate with state employees about personnel issues and other relevant issues through publications;

b. Administer the employee incentive programs established by KRS 18A.202; and

c. Provide dispute resolution assistance to state employees and agencies;

(d) Department for Employee Insurance, which shall be responsible for the:

1. Health Insurance Program, pursuant to KRS 18A.225; and

2. Flexible Benefit Plan, pursuant to KRS 18A.227;

(e) Office of Administrative Services, which shall be responsible for the Personnel Cabinet's Administrative Services;

(f) Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives, upon request; and

(g) Office of Government Training, which shall improve individual and organizational performance throughout state government through employee and managerial training, consultation, and survey research services.

(4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

The Committee Substitute to **HB 212** is as follows:

HB 212, AN ACT relating to a state employee sick leave bank.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.196 is amended to read as follows:

As used in ***this section,*** KRS 18A.197***, and Sections 2 and 3 of this Act,*** unless the context requires otherwise:

(1) ***"Eligibility date" means the date the member exhausts all accumulated sick, compensatory, and annual leave;***

(2) "Employee" means any employee of the Commonwealth of Kentucky who is entitled to accrue sick leave and for whom accurate leave records are maintained;[~~ and~~]

(3)[~~(2)~~] ***"Member" means any state employee who has voluntarily opted to become a participant in the Sick Leave Bank Program by making the initial donation of the minimum number of days necessary and continues to maintain membership in the bank by donating any necessarily assessed number of days as deemed necessary by the board of trustees to ensure its solubility;***

(4) "Sick leave" means a designated amount of compensated leave accumulated and used by the employee pursuant to standards set forth in administrative regulations;

(5) "Sick Leave Bank" or "bank" means a system of accounting for voluntarily pooled and irrevocably donated accumulated personal sick leave, which is collected for the purpose of providing sick leave to members of the program who have suffered a personal illness, surgery, disability, or quarantine and whose leave balances have been exhausted;

(6) "Sick Leave Bank trustees" or "trustees" means those persons appointed to govern the activities of the Sick Leave Bank pursuant to Sections 2 and 3 of this Act; and

(7) "State agency" or "agency" means any agency of the executive, legislative or judicial branch of the state government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The state employee Sick Leave Bank is hereby created and attached to the Personnel Cabinet for administrative purposes. The Sick Leave Bank shall be available to all employees who choose to participate and meet the requirements established in Section 3 of this Act. The purpose of the bank shall be to provide emergency sick leave to member employees who have suffered a disability due to an injury, an unplanned personal illness, surgery, or medical condition requiring a prolonged absence from the work place. Employees shall only be eligible to receive sick leave from the bank if the employee has been a contributing member of the Sick Leave Bank pursuant to Section 3 of this Act and after all sick, annual, and compensatory leave balances have been exhausted.

(2) The state employee Sick Leave Bank shall only become operational upon petition to the secretary of the Personnel Cabinet by at least one hundred fifty (150) employees who meet the guidelines established in Section 3 of this Act.

(3) The bank shall be governed by a board of trustees. The board shall be composed of the following seven (7) members:

(a) Secretary of the Personnel Cabinet or a designee;

(b) The Executive Director of the Office for Employee Relations or a designee;

(c) The Division Director of the Division of Employee Benefits or a designee;

(d) Two (2) members appointed by the Secretary of the Personnel Cabinet, who represent state employees as a recognized state employee organization; and

(e) Two (2) classified personnel branch managers who shall be appointed by the Secretary of the Personnel Cabinet and serve four (4) year terms. Upon completion of the four (4) year term, the secretary may reappoint the personnel branch manager to serve another term. Upon the resignation of the personnel branch manager from the board of trustees, the board shall fill the appointment and the newly appointed personnel branch manager shall serve the remainder of the unexpired term.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The state employee Sick Leave Bank shall operate as follows:

(1) All employees of state government who meet the regulatory requirements established by the secretary pursuant to KRS 18A.110 regarding sick leave accrual, have been employed by state government for twelve (12) consecutive months immediately preceding application for participation, are in leave accrual status, and have a sick leave balance of at least eight (8) days as of October 31 of the current enrollment year shall be eligible to participate in the program.

(2) State employees who elect to participate in the program shall do so through the application process during the months

of August and September of each year. Applications shall be made on forms approved by the board of trustees and made available to state employees by the Personnel Cabinet.

(3) A member is considered to have applied and filed in a timely manner if the application for Sick Leave Bank benefits is submitted no earlier than two (2) weeks prior, but no later than thirty (30) days after, a member's eligibility date, absent any extraordinary circumstances. If a member's application is received more than thirty (30) days after the member's eligibility date and no extraordinary circumstances are found, the application for benefits shall be denied and no further applications for benefits regarding that specific illness or injury shall be accepted.

(4) Any state employee electing to participate in the bank shall initially have the equivalent of four (4) days of sick leave deducted from his or her accumulated sick leave account and donated to the bank. Each subsequent year, each member who has already made the initial contribution to the bank shall have one (1) day of sick leave deducted on October 1. The board of trustees shall reserve the right to determine if the bank has a sufficient balance and may suspend the annually mandated deduction.

(5) All donations to the Sick Leave Bank shall be nonrefundable and nontransferable.

(6) At any time the number of days in the Sick Leave Bank is less than one hundred (100), or one (1) day per member if there are more than one hundred (100) members, or at any other time deemed advisable, the board of trustees shall assess each member one (1) or more days of accumulated sick leave. For any member who is not in leave accruing status and does not have sufficient accumulated sick leave available to meet the obligation, the first earned leave days shall be donated as they are accrued by the member. It is the sole responsibility of the member to satisfy the assessment within one (1) year or the member shall lose the right to membership and all of the benefits associated with it.

(7) The Sick Leave Bank trustees shall establish the criteria for distributing sick leave from the bank, hear appeals regarding denials of requests for sick leave, and prescribe the form and manner of participation in the bank.

(8) The Division of Employee Benefits within the Personnel Cabinet shall be responsible for granting or denying all initial requests for sick leave to be distributed from the Sick Leave Bank. The initial decision shall occur within ten (10) calendar days from receipt of all necessary documentation.

(9) All appeals to the Sick Leave Bank trustees shall be filed with the Division of Employee Benefits within the Personnel Cabinet within fifteen (15) calendar days from receipt of a determination.

(10) Members of the Sick Leave Bank shall be eligible to make application to the bank for sick leave on February 1 following enrollment. All applications to the bank shall be on forms approved by the board of trustees of the bank.

(11) Leave grants from the bank shall not be more than twenty (20) consecutive days for which the individual member would have otherwise lost pay. A member may receive a maximum of ninety (90) days from the Sick Leave Bank as a result of an accident, illness, or an illness related to, resulting from, or recurring from a previously diagnosed illness for which Sick Leave Bank benefits were granted.

(12) Grants of sick leave from the bank shall not exceed ninety (90) days within any twelve (12) month period. The initial twelve (12) month period shall begin on the date the member first received a benefit from the Sick Leave Bank and shall extend twelve (12) months forward from that date. A new twelve (12) month period shall begin the first time Sick Leave Bank benefits are begun after completion of the pervious twelve (12) month period.

(13) A member shall not initially receive any sick leave from the bank until after having exhausted all accumulated sick, annual, and compensatory leave and after having been without pay status for five (5) consecutive days.

(14) Any application for sick leave from the Sick Leave Bank shall require a withdrawal request application completed by the member. All withdrawal request applications shall be completed by the member and forwarded to the member's agency personnel office.

(15) A medical certification form shall be completed in its entirety by the current attending medical doctor or surgeon at the time of application. All medical certification forms shall be forwarded by the medical office directly to the Sick Leave Bank. Medical certification forms received directly from anyone other than the medical office shall not be accepted by the Sick Leave Bank. The medical certification form shall be based on the timeline as established in subsection (12) of this section. The treatment visit shall be as close as possible to the date the member exhausts all leave balances. A treatment visit may include a visit while in the hospital or the date of surgery.

(16) Members may submit subsequent applications for extensions of sick leave grants before or after prior grants expire. Any subsequent applications for benefits relating to the same injury or illness shall be based on a follow-up treatment visit and shall require a withdrawal request application and a medical certification form. The medical certification form shall be completed by the current medical doctor or surgeon or by a nurse practitioner or physician's assistant working directly under the supervision of the medical doctor or surgeon. All medical certification forms shall be forwarded by the medical office directly to the Sick Leave Bank. Any medical certification forms received directly from anyone other than the medical office shall not be accepted by the Sick Leave Bank.

(17) The member shall have exhausted all Sick Leave Bank benefits prior to being eligible to receive any donated sick leave. Members who are temporarily disabled due to an injury or illness and have received the maximum ninety (90) days pursuant to subsection (11) or (12) of this section shall continue to submit withdrawal request applications and medical certification forms from follow-up treatment visits prior to approval and use of donated sick leave.

(18) If a member becomes physically or mentally unable to submit a request to the Sick Leave Bank for use of donated sick leave days, an immediate family member or the family's council may file the request.

(19) Grants of sick leave from the bank shall not be made to any member on account of elected surgery, illness of any family member, while the member is receiving income from other employment, or during any period in which the member is receiving disability benefits from Social Security, the state retirement plan, workers' compensation benefits, or any other employment.

(20) Leave grants from the bank for conditions determined to be pre-existing shall not be eligible for Sick Leave Bank benefits until twelve (12) months following the effective date of the employee's membership.

(21) The board of trustees or a designee of the board may require a second medical opinion concerning any member's application for benefits.

(22) A member who sustains an injury or illness in the workplace shall submit a workers' compensation claim for lost time and receive a determination prior to requesting sick leave from the Sick Leave Bank.

(a) If the workers' compensation claim is denied, a request for Sick Leave Bank benefits shall be considered.

(b) If the workers' compensation claim is approved, a request for Sick Leave Bank benefits shall not be considered.

(23) Members who received lost time or a settlement for future lost time based on a workers' compensation claim from the state or from other employment shall not be eligible for Sick Leave Bank benefits for any claims involving the work-related injuries or illnesses.

(24) Sick Leave Bank benefits shall terminate upon the date that the member is released to return to work, even if certain restrictions apply. If a member returning to work with medical restrictions is prohibited by the employing agency, the member shall be eligible to continue receiving benefits if all other eligibility requirements are met.

(25) An employee receiving benefits from the Sick Leave Bank shall be deemed to be a state employee and shall receive the same treatment with respect to salary, wages, annual increments, and employee benefits.

(26) A member shall lose the right to membership and to obtain the benefits of the Sick Leave Bank by:

(a) Resignation or termination of employment with the Commonwealth of Kentucky;

(b) Transferring to any state agency or institution that does not accrue leave in accordance to administrative regulations;

(c) Changing from full-time to part-time employment status;

(d) Cancellation of participation on June 30 of any year;

(e) Refusal to honor assessments from the board of trustees in order to maintain sufficient leave balance levels within the bank; or

(f) Retirement.

(27) Upon written notification from a member to the trustees, the member may withdraw from bank participation on any June 30. Membership withdrawal shall result in forfeiture of all days contributed to the bank.

(28) Upon a finding by the Sick Leave Bank administrator of any material misrepresentation of facts by a member in making application for use of sick leave from the Sick Leave Bank, the board of trustees may vote to expel or deny benefits to the member.

(29) Any member who receives any Sick Leave Bank benefits through the use of any material misrepresentation of facts shall be liable for the reimbursement of all salary and benefits expended by the bank. All members shall consent to payroll deduction for the reimbursement of Sick Leave Bank benefits expended through the use of any material misrepresentation of facts.

(30) In the event that the Sick Leave Bank is dissolved, the total number of days still deposited within the bank shall be distributed to participating members and credited to the employee's personal sick leave balances in proportion to the number of days each has contributed individually. All days returned under this subsection and credited to the individual member's balance shall be rounded to the nearest one-half (1/2) day.

Section 4. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Personnel Cabinet the following offices, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment. The Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the

authority's board of directors:

(a). Office of the Secretary, which shall be responsible for the administration and coordination of the following programs:

1. The state Equal Employment Opportunity Program;

2. The state Minority Management Program; and

3. The state's affirmative action plan established in KRS 18A.138.

Kentucky Public Employees Deferred Compensation Authority shall be attached to the Office of the Secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of finance and administration, ex officio; the secretary of personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A;

(b) Department for Personnel Administration, composed of the:

1. Division of Employee Management, which shall be responsible for payroll, records, classification, compensation, and performance management functions. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 to 18A.1132 and shall monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA). The division shall:

a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;

b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;

c. Maintain plans of classification and compensation for state service and review and evaluate the plans; and

d. Coordinate and implement the employee performance evaluation systems throughout state government;

2. Division of Staffing Services, which shall be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall:

a. Operate a centralized applicant and employee counseling program;

b. Operate, coordinate, and construct the examination program for State employment;

c. Prepare registers of candidate employment; and

d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program;

(c) Office for Employee Relations, composed of the following divisions:

1. Division of Employee Benefits, which shall consist of the following:

a. Workers' Compensation Program pursuant to KRS 18A.375;

b. Life Insurance Program pursuant to KRS 18A.205 to KRS 18A.220;

c. Sick leave Sharing Program, pursuant to KRS 18A.197;

d. Annual Leave Sharing Program, pursuant to KRS 18A.203;

e. Health and Safety Programs (OSHA);[~~ and~~]

f. Employee Assistance Program; ***and***

g. Sick Leave Bank, pursuant to Sections 2 and 3 of this Act.

2. Division of Communications and Recognition, which shall:

a. Communicate with state employees about personnel issues and other relevant issues through publications;

b. Administer the employee incentive programs established by KRS 18A.202; and

c. Provide dispute resolution assistance to state employees and agencies;

(d) Department for Employee Insurance, which shall be responsible for the:

1. Health Insurance Program, pursuant to KRS 18A.225; and

2. Flexible Benefit Plan, pursuant to KRS 18A.227;

(e) Office of Administrative Services, which shall be responsible for the Personnel Cabinet's Administrative Services;

(f) Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives, upon request; and

(g) Office of Government Training, which shall improve individual and organizational performance throughout state government through employee and managerial training, consultation, and survey research services.

(4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 5. The Secretary of the Personnel Cabinet shall provide information regarding the Sick Leave Bank program, established by this Act, to state employees on the Personnel Cabinet Web page. State employees shall be informed of the program's guidelines and requirements and shall also be given the opportunity to petition the secretary for the program to become operational.

HB 228, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.374 is amended to read as follows:

(1) (a) When a Condition Red has been declared by the United States Department of Homeland Security under the Homeland Security Advisory System or the Governor has declared a state of emergency under KRS 39A.100, the Governor may implement this section ***by executive order*** for ***a period of thirty (30) days from notification of implementation, as required by KRS 367.376. The order implementing this section shall be limited to the geographical area indicated in the declaration of emergency***[~~ the duration of the declaration and the area for which the declaration was issued~~].

(b) No person shall sell, rent, or offer to sell or rent, regardless of whether an actual sale or rental occurs, a good or service listed in this paragraph or any repair or reconstruction service for a price which is grossly in excess of the price prior to the declaration and unrelated to any increased cost to the seller. Goods and services to which this section applies are:

1. Consumer food items;
2. Goods or services used for emergency cleanup;
3. Emergency supplies;
4. Medical supplies;
5. Home heating oil;
6. Building materials;
7. Housing;
8. Transportation, freight, and storage services; and
9. Gasoline or other motor fuels.

(c) A person who increases a price does not violate this subsection if the price increase is attributable to an additional cost imposed by a supplier of a good or other costs of providing the good or service, including an additional cost for labor or materials used to provide a service.

(2) The provisions of this section may be extended for an additional period, not to exceed thirty (30) days, by the Governor if necessary to protect the lives, property, or welfare of the citizens.

(3) If a person sold or rented a good or service listed in subsection (1) of this section at a reduced price in the thirty (30) days prior to the Governor's implementation of this section, the price at which that person usually sells or rents the good or service in the area for which the declaration was issued shall be used in determining if the person is in violation of this section.

(4) If a person did not sell or rent or offer to sell or rent a good or service listed in subsection (1) of this section prior to the Governor's implementation of this section, the price at which a good or service was generally available in the area for which the declaration was issued shall be used in determining if the person is in violation of this section.

HB 293, AN ACT relating to establishing the first day of November as Native American Indian Day in the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.230 is amended to read as follows:

(1) The month of November of each year shall be observed in Kentucky as "Native American Indian Month" and during this month schools, clubs, and civic and religious organizations are encouraged to recognize the contributions of Native American Indians with suitable ceremony and fellowship designed to promote greater understanding and brotherhood between Native American Indians and the non-Native American Indian people of the Commonwealth of Kentucky.

(2) The Governor shall, prior to the first day of November of each year, issue a proclamation inviting and urging the people of

the Commonwealth to observe Native American Indian Month with suitable ceremony and fellowship.

(3) The Kentucky Department of Education, Kentucky Heritage Council, and the Native American Heritage Commission established in KRS 171.820 shall, within the limits of funds available for this purpose, make information available to all people of this Commonwealth regarding Native American Indian Month and the observance thereof.

(4) To initiate the month's activities, the first day of November each year is hereby designated as "Native American Indian Day" in the Commonwealth. This shall be a day to honor and pay tribute to the Commonwealth's Native American Indians, past and present; to celebrate their invaluable contributions to the Commonwealth's collective history and cultural heritage; and to launch the month's theme of promoting greater understanding, respect, and brotherhood between Native American Indians and the non-Native American Indian people of the Commonwealth.

HB 295, AN ACT relating to an annual report to citizens on the finances, operations, and management of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.110 is amended to read as follows:

(1) The Governor shall prepare and submit to the Legislative Research Commission annual reports of the finances and operations of the state and such other reports as the General Assembly may prescribe or as the Governor may desire. The head of each statutory department shall make to the Governor an annual report and may at any time be required by the Governor to make any special report concerning the work under his charge, with his observations and recommendations thereon and pertinent statistics concerning the work of the department, each of which the Governor shall transmit to the Legislative Research Commission with such comments as he may desire to make. All such annual reports shall observe the fiscal year of the state as the reporting year, and shall be published to the extent ordered in writing by the Governor. Twenty-five (25) copies of each report shall be filed with the Legislative Research Commission for availability to the members of the General Assembly upon request. Additional copies of any report shall be made available to the Legislative Research Commission at no charge if the requests for said report exceed twenty-five (25).

(2) Agencies shall file all annual and biennial reports required by law to be made by agencies with the Governor, and a copy thereof in the office of the Secretary of State, which shall be preserved as a public record.

(3) (a) The Office of the State Budget Director shall prepare and issue a brief, clear, and concise annual report for each fiscal year ending June 30 to the citizens of the Commonwealth on the financial highlights, operation, and management of state government. The report shall be entitled "Annual Report to Kentucky Taxpayers." The report shall be issued no later than September 30 of each year and shall include but not be limited to the following information:

1. An organizational chart for each branch of government;

2. Revenues, by source, and expenditures for each major organizational unit of state government;

3. A brief description and summary of statistical data on major programs and services funded by appropriations of the General Assembly; and

4. A brief statement by the Governor of the Commonwealth, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Kentucky Supreme Court on the condition of the Commonwealth.

(b) The use of charts, tables, graphs, and other visual representations of data in the report is encouraged where deemed to enhance understanding.

(c) The report shall be made available electronically on the state Web site and shall remain on the state Web site until it is replaced by the following year's report.

HB 325, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Auditor of Public Accounts reorganization Executive Order #06-01, signed by the Secretary of State on May 19, 2006, which creates the Office of Legal and Audit Support Services, headed by an executive director appointed by the Auditor; abolishes the Office of Quality Assurance and Consultation and transfers its quality assurance function to the Division of Financial Audits and its consultation and training for internal staff and local officials function to the Office of Planning and Management; and reorganizes the Division of Examination and Information Technology to reallocate resources within that division.

HB 386, AN ACT relating to librarians and libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.270 is amended to read as follows:

The board shall require a fee of not less than ***five dollars ($5)***[~~one dollar ($1)~~] nor more than ***twenty dollars ($20)***[~~five dollars ($5)~~] to be paid by each applicant for a librarian's certificate.

Section 2. KRS 171.280 is amended to read as follows:

The revolving fund established by the branch budget bill, consisting of all moneys collected under the provisions of KRS 171.230 to ***171.306***[~~171.300~~] shall be designated as the librarian's certification fund. All money credited to the fund shall be used for the support of the Board for Certification of Librarians, and for the purposes of KRS 171.230 to ***171.306***[~~171.300~~].

Section 3. KRS 173.810 is amended to read as follows:

(1) The Kentucky State Advisory Council on Libraries is hereby created and shall be composed of twenty-one (21) members, appointed by the Governor for a term of four (4) years, except that of the twenty-one (21) members initially appointed, six (6) shall serve terms of four (4) years, five (5) shall serve terms of three (3) years, five (5) shall serve terms of two (2) years and five (5) shall serve terms of one (1) year. The Governor of the Commonwealth of Kentucky shall appoint from this membership a chairman and co-chairman to serve for periods of two (2) years each. The council shall be attached to the ***Education*** Cabinet[~~ for Education and the Arts~~] for administrative purposes.

(2) Of the twenty-one (21) members, four (4) shall represent public libraries, two (2) shall represent school libraries, two (2) shall represent college or university libraries, ***four (4) shall represent special and***[~~two (2) shall represent special libraries, two (2) shall represent~~] institutional libraries, two (2) shall represent library users with disabilities and seven (7) members, at least one (1) of whom shall be representative of disadvantaged persons, shall represent library users.

(3) Vacancies shall be filled by the Governor in the same manner as initial appointments are made.

(4) Members of the Kentucky State Advisory Council on Libraries shall be compensated for actual and necessary expenses.

(5) The council shall be the state advisory council on libraries for the purposes of ***advising the Kentucky Department of Libraries and Archives on federal and state library development issues***[~~Section 3(8) of the Federal Library Services and Construction Act~~].

Section 4. KRS 171.230 is amended to read as follows:

The provisions of KRS 171.240 to ***171.306***[~~171.300~~] shall apply to public libraries as defined in KRS 171.125.

Section 5. KRS 171.250 is amended to read as follows:

(1) The board shall grant certificates of librarianship to applicants who are graduates of library schools approved by the board and shall grant certificates to other applicants when it has satisfied itself that the applicant is qualified for library work. Applicants shall provide such information as required by the board to determine their qualifications.

(2) The board may issue renewals, determine the positions for which certificates of librarianship shall be required, and may adopt rules and regulations for its own government and for carrying out the purposes of KRS 171.230 to ***171.306***[~~171.300~~].

(3) The board may issue certificates to qualified persons who are serving in libraries not supported from public funds.

(4) Librarians who were in service on May 31, 1938, and served one (1) year prior to such date shall be entitled to receive a life certificate in accordance with their qualifications, without examination, upon the payment of prescribed fee.

Section 6. KRS 171.260 is amended to read as follows:

No library coming under the provisions of KRS 171.230 to ***171.306***[~~171.300~~] shall have in its employ, in the position of librarian, or in any other full-time library service position, a person who does not hold an appropriate certificate of librarianship issued by the board.

HB 400, AN ACT relating to the Kentucky State Fair Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.140 is amended to read as follows:

(1) The State Fair Board:

(a) Shall have the custody and control of[~~ such~~] property[~~ as~~] now[~~ is~~] under its custody and control, and of[~~ such~~] property ***that***[~~as~~] may hereafter be placed under its control or transferred to it by the State Property and Buildings Commission ***or any other person or agency***, for any purposes mentioned in this section***.***[~~ and~~] The physical properties[~~ so~~] under its custody and control or transferred to it ***include those***[~~are hereinafter~~] referred to in this section, and in KRS 247.150 and 247.160, as the "state fairgrounds***"*** and[~~ an area in a city of the first class to be used~~] as an ***"***exhibition center."

(b) May erect and repair buildings on the state fairgrounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objectives defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fairgrounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical, and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings, and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fairgrounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(e) May purchase liability insurance for the members and executive officers exempted from the classified service of the state by KRS 18A.115.

(f) Shall operate the North American International Livestock Exposition, which shall be under the direction of a director appointed by the Governor upon the recommendation of the North American International Livestock Exposition Executive Committee.

(g) May enter into written agreements with other persons for the State Fair Board to manage, supervise, operate, or provide other related services with respect to the Louisville Arena referenced in 2006 Ky. Acts ch. 252, Part II, G., 1., project 001, and associated facilities. Any agreement under this subsection shall be conditioned upon compliance of all parties to the agreement with the applicable provisions of KRS Chapter 45A, the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, and the Kentucky Open Meetings Act, KRS 61.800 to 61.850.

(2) The State Fair Board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the State Property and Buildings Commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it shall proceed in the manner provided in the Eminent Domain Act of Kentucky.

Section 2. KRS 247.150 is amended to read as follows:

(1) The State Fair Board may arrange with the county judge/executive or the officer that has charge of the police force of any county***,***[~~ or~~] city***, or consolidated local government*** in which the state fair is held, for the proper policing of the state fairgrounds, and may arrange with the state for the policing of the state fairgrounds by the State Police.

(2) The State Fair Board may arrange with the mayor or the officer that has charge of the police force of any county***,***[~~ or~~] city***, or consolidated local government*** in which the exhibition center ***or any premises that is the subject of an agreement under paragraph (g) of subsection (1) of Section 1 of this Act*** is located for the proper policing of the exhibition center ***or other premises***, and may arrange with the state for the policing of the exhibition center ***or other premises*** by the State Police.

(3) If the State Fair Board is unable to arrange with a city, county or state authority for police protection, it may appoint, or may delegate to any agent or employee the power to appoint, subject to the approval of the State Fair Board, necessary special police to properly police the state fairgrounds***, the***[~~ and~~] exhibition center***, or any premises affected by an agreement under paragraph (g) of subsection (1) of Section 1 of this Act***. Such police officers ***shall be***[~~are~~] vested with the powers and charged with the duties of peace officers.

Section 3. KRS 247.190 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section,*** all revenues derived by the State Fair Board from the use of properties and facilities under its custody and control shall be used exclusively for the purpose of defraying the expenses of the board, the cost of the management and operation of such properties and facilities, the payment of interest and principal upon any indebtedness incurred by the board for such properties and facilities, the creation of adequate reserves for the repair and replacement thereof, and for the financing of further extensions, improvements, and additions thereto. Included in the cost of operation may be such promotional activities as the State Fair Board may determine upon as calculated to stimulate and increase the use and the revenues of such facilities, and to increase and stimulate the interest and usefulness of the State Fair. Any surplus revenues remaining after full provision for the above purposes shall be used to reduce the admission fees and charges to the public for attendance upon the State Fair and for public use by the citizens of the Commonwealth of the facilities of the State Fair Board, and shall on no account be appropriated to any other agency or function.

(2) ***If the State Fair Board enters into an agreement under paragraph (g) of subsection (1) of Section 1 of this Act, the State Fair Board shall be prohibited from using any funds in its possession in excess of payments received by the State Fair Board under the agreement to pay any expenses, costs, losses, or other claims relating to the arena, building, location, or facility identified in the agreement. The State Fair Board shall not incur any expense, cost, loss, or claim in relation to the agreement not expressly provided for as a valid obligation of the State Fair Board under the terms of the agreement. The limitations in this subsection shall be in addition to any requirements specified in paragraph (g) of subsection (1) of Section 1 of this Act.***

(3) The State Fair Board shall generally cause its funds to be deposited in the State Treasurer's office, to be withdrawn on appropriate vouchers approved by the board, but may create special accounts in other depositories for the purpose of securing the prompt payment of interest and principal on any of its bonded indebtedness if in the judgment of the board, or, if as determined by competitive bids, the creation of such special accounts and depositories is advantageous and economical to the board.

(4)[~~(3)~~] An annual accounting of the funds of the state fair board shall be made by the Auditor of Public Accounts and reported to the Governor for the benefit of Governor and the General Assembly.

HB 418, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by

virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose total service credit on or before December 31, 2008 is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008 is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:***

1. All service creditable for retirement as of December 31, 2008; and

2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

(d) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 2. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except

that:

(a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit.

(b) Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(c) Any Kentucky Employees Retirement System member who has at least twenty (20) years of service credit in one of the state-administered retirement systems as of December 31, 2008, and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, and who would be eligible to retire between February 1, 1999, and January 1, 2009 shall receive an annual retirement allowance, payable monthly during his or her lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. For purposes of this paragraph, a member's total service credit shall mean:

1. All service creditable for retirement as of December 31, 2008; and

2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

(d)[~~(b)~~] For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent (2%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime;

(e)[~~(c)~~] The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(f)[~~(d)~~] The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(g)[~~(e)~~] Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(h)[~~(f)~~] The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(i)[~~(g)~~] The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier

commencement of benefits.

(b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars ($2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars ($100) greater or less than the amount of the initial retirement payment.

Section 3. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which

are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose total service credit on or before December 31, 2008 is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008 is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:***

1. All service creditable for retirement as of December 31, 2008; and

2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

(d) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;
- (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
- (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
- (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and

(32) "Month" means a calendar month.

The Committee Substitute to **HB 418** is as follows:

HB 418, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor,

shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12).

The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose total service credit on or before December 31, 2008 is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008 is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:***

1. All service creditable for retirement as of December 31, 2008; and

2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

(d) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall

be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 2. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit.

(b) Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(c) Any Kentucky Employees Retirement System member who has at least twenty (20) years of service credit in one of the state-administered retirement systems as of December 31, 2008, and who was participating in one of the

state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, and who would be eligible to retire between February 1, 1999, and January 1, 2009 shall receive an annual retirement allowance, payable monthly during his or her lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. For purposes of this paragraph, a member's total service credit shall mean:

1. All service creditable for retirement as of December 31, 2008; and

2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

(d)[~~(b)~~] For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent (2%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime;

(e)[~~(c)~~] The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(f)[~~(d)~~] The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(g)[~~(e)~~] Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(h)[~~(f)~~] The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(i)[~~(g)~~] The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars ($2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars ($100) greater or less than the amount of the initial retirement payment.

Section 3. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose total service credit on or before December 31, 2008 is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008 is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:***

1. ***All service creditable for retirement as of December 31, 2008; and***
2. ***Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or***

(d) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and

(32) "Month" means a calendar month.

Section 4. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a ***trust*** fund to be known as ***the*** "Kentucky Retirement Systems Insurance Fund." All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in this section.

(2) The fund is created pursuant to 26 U.S.C. ***sections 105 and***[~~sec.~~] 106 for the purpose of providing a fund separate from the retirement funds***. Fund assets are dedicated to providing***[~~ and is to be used to provide fringe~~] benefits ***in accordance with the plan described***[~~as provided~~] in KRS 61.702 to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems, and the board shall ***serve as trustees of the insurance fund. The board shall*** manage the assets of the fund in the same manner in which it administers the retirement funds. ***However, separate accounting and financial reporting must be maintained for the insurance fund.***

HJR 118, A JOINT RESOLUTION recognizing the third week in October as "Conflict Resolution Week in Kentucky."

WHEREAS, the Commonwealth of Kentucky has a long and honorable lineage of native daughters and sons dedicated to the work of conflict resolution and peacemaking, such as Muhammad Ali, U. S. Vice President and U. S. Senator Alban W. Barkley, Supreme Court Justice Louis D. Brandeis, President Abraham Lincoln, Kentucky Senator Georgia Davis Powers, and Whitney M. Young, Jr.; and

WHEREAS, conflict is a normal part of human experience which can be a positive force for growth and development; and

WHEREAS, all people experience conflicts in their families, neighborhoods, workplaces, business associations, religious groups, and governments at every level; and

WHEREAS, many people often experience conflicts as uncontrollable and destructive, with harmful effects on emotions, health, relationships, and finances; and

WHEREAS, all people can learn to understand, anticipate, manage, control, and benefit from conflict; and

WHEREAS, all people can benefit from practicing respect for others, listening skills, the art of compromise and the search for common ground, and other positive problem-solving values and techniques; and

WHEREAS, all people possess the ability and personal authority to prevent, intervene in, and resolve, conflicts through ethical actions towards others with whom they have conflicts; and,

WHEREAS, the Commonwealth of Kentucky encourages governmental bodies everywhere to consider the benefits of conflict management and resolution by setting aside one week for activities and reflection; and

WHEREAS, the Legislature of the Commonwealth has created laws and rules of procedure using conflict resolution principles and goals to serve our citizens, such as KRS Chapter 417; KRS 336.1661 to 336.1664; and KRS 454.011, which declares:

"It is the policy of this Commonwealth to encourage the peaceable resolution of disputes and the early, voluntary settlement of litigation through negotiation and mediation. To the extent it is consistent with other laws, the courts and state governmental agencies are authorized and encouraged to refer disputing parties to mediation before trial or hearing"; and

WHEREAS, the Supreme Court of the Commonwealth of Kentucky has issued Order Number 2005-02, dated April 15, 2005, establishing Mediation Guidelines for Court of Justice Mediators; and

WHEREAS, the Honorable Ernie Fletcher, Governor of the Commonwealth of Kentucky, did proclaim October 20, 2005, to be "Conflict Resolution Day"; and

WHEREAS, the House of Representatives, the Senate, and the Office of the Governor of the Commonwealth, are united in their desire to serve citizens of the state through effective use of constructive conflict resolution principles;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes the third week in October as "Conflict Resolution Week in Kentucky."

Section 2. The Office of the Governor annually shall issue notice of this week to the state employees and citizens of the Commonwealth and encourage participation.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 224, 263, 374, 405, 415**

Transportation: **SJR 16**

Calendar

HB 46, 124, 138, 278, 367, 394, 203, 231, 399, HCR 47, 127, HB 83, 366, 6, 75, 184, 185, 258, 262, 291, 312, 321, 332, 326, 360, 51, 59, 92, 105, 128, 167, 280, 7, 82, 125, 175, and **214** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative DeCesare moved that Floor Amendments No. 1 and 2 to **HB 64** be withdrawn. Agreed.

Representative Nelson moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Nelson moved the adoption of the following **Legislative Citation No. 33.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Don Girton for the outstanding foresight and vision he demonstrated which led to the founding of the Kentucky Woodland Owners Association in 1994, an organization that labors to assist Kentucky's 423,000 private woodlands owners improve and maintain the health of their forest land. A retired employee of the United States Forest Service, this esteemed honoree recognized the vast economic potential and positive environmental impact that healthy woodland and forests factor into creating jobs; sustaining wildlife habitat; and promoting hunting, recreation and tourism activities within the Commonwealth and, as a result, played an instrumental role in creating this outstanding non-profit membership organization, which partners with the University of Kentucky, the Kentucky Division of Forestry, the Kentucky Forest Industries Association and Kentucky Farm Bureau to provide field training, monitor legislation and provide information regarding both opportunities for and threats to private woodlands. Inasmuch as Don Girton has faithfully and diligently labored to preserve, protect and promote the valuable natural resources of this Commonwealth and has earned the much-deserved admiration and respect of his peers and the myriad of citizens who have benefited from his most capable service, the members of this august body are delighted to join with Representative Rick Nelson in applauding him for his visionary and diligent efforts throughout the years and in extending to him sincere expressions of deepest appreciation for the stewardship he has rendered on behalf of the land of this great Commonwealth. Done in Frankfort, Kentucky, this fifteenth day of February, in the year two thousand and seven.

Legislative Citation No. 33 was adopted without objection.

Representative Pullin moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Pullin moved the adoption of the following **Legislative Citation No. 34.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The School of Human Environmental Sciences at the University of Kentucky upon preparing to celebrate its 100th Anniversary on March 3, 2007. Interwoven in the fabric of its origin and progression is the history of women's struggle for educational opportunity and validation of their worth in the culture. This upcoming celebration marks the great, if circuitous, strides this vital educational program of study, which began in 1906 when the forty women who became the University's first domestic science students attended classes in the basement of the women's dormitory, has made throughout the past one hundred years. In 1908 the School of Domestic Science had become a department within the College of Arts and Sciences, adding home nursing to its curriculum, and by 1910, had moved to the College of Agriculture. Mary E. Sweeney, one of UK's first home economics graduates was named head of the Department of Home Economics in 1913, the same year Helen B. Wolcott accepted her appointment as the first state extension agent to organize home economic extension throughout the state. In 1916, the Department became an independent unit, and in 1917, was again returned to the College of Agriculture. During the 1940s, and housed in its own building, the Department established a master's degree program in home economics and the College's name was changed to the College of Agriculture and Home Economics, followed in 1953 with the Department becoming the School of Home Economics, directed by Dr. Statie Erikson. In retrospect, this tenaciously rooted course of study with its branches that were identified with first one College, School, or Department, and then another, had at its heart, outstanding leadership that fostered the development of phenomenal students into a wealth of highly-trained professionals whose contributions have added richly to this Commonwealth and Nation. Inasmuch as the School of Human Environmental Science, College of Agriculture, University of Kentucky, led now by acting dean, Scott Smith, and director, Ann Vail, has aspired to advance the diverse community it serves, the members of this august body are honored to join Representative Tanya Pullin in issuing a warm welcome to the delegation present today in the Gallery of the House of Representatives during the 2007 Regular Session of the Kentucky General Assembly and in extending best wishes for the utmost success as they continue to prepare stellar professionals for the Commonwealth and beyond. Done in Frankfort, Kentucky, this fifteenth day of February, in the year two thousand and seven.

Legislative Citation No. 34 was adopted without objection.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 186, 107, 210, 215, 240, 6, 7, 46, 51, 59, 75, 82, 83, 92, 124, 125, 128, 175, 258, 262, 280, 291, 312, 326, 332, 360, 366, HCR 47,** and 127 have been posted for passage in the Regular Orders of the Day for February 16, 2007.

The Committee on Rules reported that the following Bill has been recommitted:

Judiciary: **HB 105**

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 503, by Representatives Meeks and Brinkman: AN ACT relating to alien disability.

HB 504, by Representative Marzian: AN ACT relating to mental illness.

HB 505, by Representatives DeWeese and Brinkman: AN ACT proposing amendments to the Constitution of Kentucky relating to medical malpractice.

HB 506, by Representatives DeWeese and Owens: AN ACT relating to health benefit plan coverage of screening for prostate cancer.

HB 507, by Representatives Meeks and Owens: AN ACT relating to the collection of DNA.

HB 508, by Representatives Meeks, Glenn, Gray, and Owens: AN ACT relating to school-based decision making councils.

HB 509, by Representative Collins: AN ACT relating to commercial driver's licenses.

HB 510, by Representative Adams: AN ACT relating to hardship driver's licenses.

HB 511, by Representative Graham: AN ACT relating to in the line of duty retirement benefits.

HB 512, by Representatives DeCesare and Edmonds: AN ACT relating to early childhood education.

HB 513, by Representative Gooch: AN ACT relating to insurance.

HB 514, by Representative Riggs: AN ACT relating to the assumption of duties by local elected officers and declaring an emergency.

HR 143, by Representative Damron: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sammy E. Corman.

HJR 144, by Representative Brinkman: A JOINT RESOLUTION directing the Cabinet for Health and Family Services to appoint an autism spectrum disorders (ASD) work group to consider methods of implementing best practices and enhancing the availability of services in light of the recommendations of the "Report of the Kentucky Commission on Autism Spectrum Disorders."

HJR 145, by Representative S. Lee: A JOINT RESOLUTION declaring certain sections of KRS Chapter 610 as Ryan's Law.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HB 357, 371, 376, 412, 444, 448**

Transportation: **HB 253, 266, 284, 329, 381, HJR 84, HCR 122**

Education: **HB 235, 311, 440, HCR 75, HB 373**

Orders of the Day

HB 244, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 244**. Agreed.

Representative J. Lee moved that **HB 244**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HB 244** - Appendix.)

HB 244, by way of Committee Substitute, was passed.

Representative J. Lee moved the adoption of Committee Amendment No. 1 Title to **HB 244**. Agreed.

Representative J. Lee moved that the vote by which **HB 244**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 273 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rand moved that **HB 273** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HB 273** - Appendix.)

HB 273 was passed and the title agreed to.

Representative Rand moved that the vote by which **HB 273** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 197 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rollins moved that **HB 197** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HB 197** - Appendix.)

HB 197 was passed and the title agreed to.

Representative Rollins moved that the vote by which **HB 197** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 120, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 120**. Agreed.

Representative Wayne moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 120**. Agreed.

Representative Wayne moved that **HB 120**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 15, 2007, roll call on **HB 120** - Appendix.)

HB 120, by way of Committee Substitute, as amended, was passed.

Representative Wayne moved the adoption of Committee Amendment No. 1 Title to **HB 120**. Agreed.

Representative Wayne moved that the vote by which **HB 120**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 144 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HB 144** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 15, 2007, roll call on **HB 144** - Appendix.)

HB 144 was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 144** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 3 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Owens moved that **HB 3** be passed.

On the roll call the vote was: **Yeas 71, Nays 26**. (See February 15, 2007, roll call on **HB 3** - Appendix.)

HB 3 was passed and the title agreed to.

Representative Owens moved that the vote by which **HB 3** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 89, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Edmonds moved the adoption of Floor Amendment No. 1 to **HB 89**. Agreed.

Representative Edmonds moved that **HB 89**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HB 89** - Appendix.)

HB 89, as amended, was passed and the title agreed to.

Representative Edmonds moved that the vote by which **HB 89**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 32 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 32** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HCR 32** - Appendix.)

HCR 32 was adopted.

Representative Adkins moved that the vote by which **HCR 32** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 25 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 25** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HCR 25** - Appendix.)

HCR 25 was adopted.

Representative Adkins moved that the vote by which **HCR 25** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 29 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 29** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HCR 29** - Appendix.)

HCR 29 was adopted.

Representative Adkins moved that the vote by which **HCR 29** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 31** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 15, 2007, roll call on **HCR 31** - Appendix.)

HCR 31 was adopted.

Representative Adkins moved that the vote by which **HCR 31** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **SJR 16** and **HB 403**. Agreed.

Representative Adkins moved that **HB 467** be reassigned to the Committee on Appropriations and Revenue. Agreed

Representative Adkins moved that **HB 446** be reassigned to the Committee on Local Government. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 515, by Representative Brinkman: AN ACT relating to institutional funds.

HB 516, by Representative Gray: AN ACT relating to workers' compensation rebuttable presumptions.

HB 517, by Representative Gray: AN ACT relating to workers' compensation.

HB 518, by Representative Pullin: AN ACT relating to military affairs.

HB 519, by Representative Pullin: AN ACT relating to military affairs.

HR 146, by Representatives Weston, Clark, Firkins, Riggs, Crimm, Miller, Bratcher, Wayne, Burch, and Jenkins: A RESOLUTION commending E.ON U.S., parent company of Louisville Gas and Electric and Kentucky Utilities, for its commitment to the FutureGen Alliance and to the responsible use of Kentucky coal.

HR 147, by Representative C. Belcher: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Phillip David McNeill.

HCR 148, by Representatives Denham, McKee, Adams, Westrom, Wilkey, Bell, Dedman, Stewart, Gooch, and Turner: A CONCURRENT RESOLUTION encouraging the Kentucky Department of Agriculture to promulgate regulations to allow certain equine health certificates and permits to coincide.

HR 149, by Representative Stein: A RESOLUTION honoring the University of Kentucky Wildcats Football Team, 2006 Music City Bowl Champions.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 437, 398, 433, 452**

Health and Welfare: **HB 459**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 263**

Local Government: **HB 397**

Report of Committees

The Committee on Health and Welfare reported **HB 103, HB 109,** with Committee Substitute attached thereto, **HB 234, HB 345,** with Committee Substitute attached thereto, **HB 352,** with Committee Substitute attached thereto, **HB 362,** with Committee Substitute attached thereto, **HB 152,** with Committee Substitute and Committee Amendment attached thereto, **HB 196, HB 337, HB 252,** and **HB 282,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 103, AN ACT relating to live organ donation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Effective for taxable years beginning on or after January 1, 2008, there shall be allowed a nonrefundable credit against taxes imposed by KRS 141.020 for any taxpayer who does not qualify for paid leave under Section 3 of this Act, and who, during the tax year for which the credit is claimed, donated a human organ to the body of another human. The amount of the credit shall be in an amount equal to the lesser of the actual amount of the live organ donation expenses or ten thousand dollars ($10,000). Any credit not used in the tax year during which the live organ donation

occurred may be carried forward for up to five (5) years.

(2) For the purposes of this section:

(a) "Human organ" means any part of a human intestine, kidney, liver, lung, pancreas, or bone marrow; and

(b) "Live organ donation expenses" means the total amount of expenses incurred by the taxpayer that:

1. Are not reimbursed to that taxpayer by any person;

2. Are directly related to a live organ donation by:

a. The taxpayer; or

b. Another individual that the taxpayer is allowed to claim as a dependent; and

3. Are for travel, lodging, or lost wages.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(c) The certified rehabilitation credit permitted by KRS 171.397;

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025; and

(o) The clean coal incentive credit permitted by KRS 141.428.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069;~~[and]~~

(d) The household and dependent care credit permitted by KRS 141.067***; and***

(e) The live organ donation credit permitted by Section 1 of this Act.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305; and

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(b) The certified rehabilitation credit permitted by KRS 171.397;

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025; and

(o) The clean coal incentive credit permitted by KRS 141.428.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) A full-time employee, as defined in KRS 18A.005, of the executive, judicial, or legislative branch of the Commonwealth of Kentucky shall be allowed up to thirty (30) days of paid leave in each calendar year to use during those hours when the employee is absent from work because of the employee's donation of a human organ. An employee shall not be required to use sick leave or vacation time before being eligible for donor leave under this section. For purposes of determining seniority, pay or pay advancement, performance awards, and the receipt of any benefit that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence. A state employer may require verification of the organ donation procedure by a medical practitioner.

(2) For purposes of this section, "human organ" means any part of a human intestine, kidney, liver, lung, pancreas, or bone marrow.

Section 4. The provisions of Sections 1 and 3 of this Act shall be known as "Beth's Bill."

HB 109, AN ACT relating to autism spectrum disorders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "autism spectrum disorders" or "ASD" has the same meaning as in KRS 194A.620(2).

(2) The cabinet, in collaboration with the Kentucky Council on Developmental Disabilities, shall draft and submit an application, within three (3) months of the effective date of this Act, to the federal Centers for Medicare and Medicaid Services for a waiver to develop and implement flexible reimbursement and payment strategies that reflect the individually determined needs for services and supports of individuals with ASD.

(3) The waiver shall be written broadly to accommodate the use of a number of revenue streams in order to provide adequate reimbursement to providers of services to individuals with ASD, their families, and caregivers.

(4) The provisions of the waiver shall not preclude individuals with ASD who otherwise meet the applicable eligibility guidelines from continuing to receive, or first seeking to receive, services under any other waiver program approved by:

(a) The Center for Medicare and Medicaid Services;

(b) The authority of the federal Deficit Reduction Act of 2005, as amended; or

(c) Any other provision of federal or state law.

An individual shall not receive services to more than one (1) waiver program simultaneously.

(5) The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services.

(6) The Department for Medicaid Services shall submit an annual report to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to

individual outcomes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child screened for autism spectrum disorders at eighteen (18) months of age, two (2) years of age, four (4) years of age, upon enrollment as a regular attendee in any public or private primary or secondary school, and at the time of the required grade six (6) physical examination.

(2) The Cabinet for Health and Family Services shall establish requirements for ASD screening through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(3) All public or private primary schools shall require a record of ASD screening for any child enrolled as a regular attendee upon enrollment at any time prior to grade six (6) and an updated record of ASD screening upon enrollment in grade six (6), as provided by administrative regulation of the Cabinet for Health and Family Services promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) If a child is suspected to have ASD following any screening required under this section, the parents, guardians, or other persons having care, custody, or control of the child shall obtain a formal diagnosis by a qualified provider within ninety (90) days following the initial screening.

(5) As used in this section and Section 3 of this Act, "autism spectrum disorders" or "ASD" has the same meaning as in KRS 194A.620(2).

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Education shall prepare an updated version of the statewide Manual on Autism to incorporate more recent data, best practices, strategies, and other relevant information developed since 1996 in order to assist school districts and educators to more effectively educate children with ASD.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Supports for Individuals with Autism Spectrum Disorders Program to implement and monitor services and supports for individuals with autism spectrum disorder (ASD) and their families and caregivers.

(2) The program shall be attached to the Cabinet for Health and Family Services for administrative purposes and staffed with qualified personnel dedicated to the program. The Cabinet for Health and Family Services shall designate adequate resources for the administration and personnel of the Supports for Individuals with Autism Spectrum Disorders Program.

(3) The program shall:

- *(a) Serve as a centralized state office and coordinating body to keep an active inventory of services and resources available to individuals with ASD and their families and caregivers. The inventory shall be posted on a user-friendly Web site and promoted to individuals with ASD, their families and caregivers, educators, health care providers and other service providers;*
- *(b) Establish clear guidelines and criteria for service providers to be eligible to seek reimbursement under the program for approved services provided to individuals with ASD and their families and caregivers;*
- *(c) Contract with service providers throughout Kentucky who have been approved by the cabinet for participation in the program to deliver approved services to individuals with ASD covered under the program;*
- *(d) Incorporate, to the fullest extent permitted under the federal Medicaid program, provisions authorizing self-determination and establishing a consumer-directed option, whereby individuals with ASD and their families, and caregivers would have wide discretion in determining the services that are best suited to meet the needs of the individual with ASD and the service providers who are best suited to deliver those services; and*
- *(e) Promote the creation of a comprehensive resource network, including interagency transition teams within agencies responsible for providing services to individuals with ASD, in order to help promote successful transitions for individuals with ASD from childhood to adulthood. The program shall follow strategies recommended by the Commission on Autism Spectrum Disorders to promote the network.*

(4) The program shall develop a comprehensive training plan for the systematic training of professionals and paraprofessionals to deliver necessary services to individuals with ASD and their families and caregivers. The program shall contract with the Kentucky Autism Training Center to implement the training plan. The plan shall:

- *(a) Track and monitor the quantitative and qualitative effectiveness of services delivered to individuals with ASD and their families and caregivers by region;*
- *(b) Encourage public universities to apply for external grants and to develop associate, baccalaureate, and graduate service and training programs and research opportunities that are staffed by both faculty and students;*
- *(c) Identify and utilize regional centers to develop statewide training activities that are coordinated and collaborative, sensitive to and based on local needs, individualized for specific type of service provider, and continuously monitored for outcomes;*

(d) Encourage memoranda of agreements with regional centers, in addition to the public universities, that may include education cooperatives, regional early childhood centers, and community mental health centers, in order to coordinate the education and training of educators, health care providers, and other service providers who may interact on a professional basis with individuals with ASD;

(e) The participating regional centers shall be required, under the memoranda of agreements entered into with the program, to review, assemble, formulate, update, and disseminate information regarding best practices for treating individuals with ASD to educators, health care providers, other service providers, and families and caregivers in their region. The training provided by the participating regional centers to educators, health care providers, other service providers, and families and caregivers shall incorporate best practices for treating individuals with ASD as approved by the program; and

(f) Incorporate, the extent practicable, the recommendations of the Commission on Autism Spectrum Disorders.

(5) The program shall enter into an interagency agreement with the Kentucky Department of Education to ensure a coordinated, effective system of delivery of services to children with ASD who are enrolled in the public school system. The program and the department shall maximize, without duplication, the services received by a student with ASD through the program and under the federal Individuals with Disabilities Education Improvement Act (IDEIA). The interagency agreement shall include, but not be limited to, the following components:

(a) The expansion of the department's current classification of eligibility criteria for autism, to be consistent with the DSM-IV-TR for pervasive developmental disorders, in order to allow children with pervasive developmental disorders not otherwise specified, Asperger's disorder, Rett's disorder, and childhood disintegrative disorder to receive educational services under the educational classification of autism;

(b) A provision of qualified program staff to serve as advocates for children with ASD and assist parents and guardians in negotiating Individual Education Plans (IEPs) to ensure that these children receive all services that are guaranteed to them under IDEIA through the public school system;

(c) A provision for guaranteeing that all children with ASD qualify for extended school day services and extended school year services without the need to show regression in the absence of participation in the programs;

(d) A provision for the department to hire more complex need consultants to ensure adequate staffing within each special needs cooperative; and

(e) A provision for the department to inform parents and legal guardians of children with ASD in the public school system of the importance of a referral of the child for a medical evaluation prior to graduation to help facilitate the child accessing federal and state benefits that, depending upon the eligibility guidelines of the particular program, may be available to the child when he or she reaches the age of twenty-one (21) years.

(6) As used in this section and Section 5 of this Act, "autism spectrum disorders" or "ASD" has the same meaning as in KRS 194A.620(2).

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Supports for Individuals with Autism Spectrum Disorders Program Advisory Board to ensure citizen involvement in the implementation and maintenance of the program within the Cabinet for Health and Family Services. The board shall be composed of nine (9) members as follows:

(a) Two (2) citizens at large appointed by the secretary of the Cabinet for Health and Family Services;

(b) Two (2) ASD service providers appointed by the secretary of the Cabinet for Health and Family Services;

(c) One (1) legal guardian or family member of an individual under the age of eighteen (18) years with ASD appointed by the secretary of the Cabinet for Health and Family Services;

(d) One (1) legal guardian or family member of an individual age eighteen (18) years or over with ASD appointed by the secretary of the Cabinet for Health and Family Services;

(e) Two (2) individuals age twenty-one (21) years or over who have ASD appointed by the secretary of the Cabinet for Health and Family Services; and

(f) One (1) representative of the Kentucky Council on Developmental Disabilities appointed by the secretary of the Cabinet for Health and Family Services.

(2) The initial appointments to the board shall be made within one (1) year of the effective date of this Act and the appointments shall be for staggered terms to ensure continuity. Except for initial staggered appointments, board members shall serve for terms of three (3) years and until their successors are appointed. The members of the board shall be eligible for successive terms on the board.

(3) The board shall meet at least quarterly on a date set by the board. Board members shall be reimbursed for necessary expenses incurred in serving on the board.

(4) The board shall annually elect a member to serve as chair and may adopt rules governing the conduct of its meetings, the creation of meeting agendas, and other procedural matters it deems necessary. The board may adopt reporting forms, which shall be developed in consultation with the cabinet.

(5) The cabinet shall provide necessary funding and staff for administrative expenses related to the operation of the board.

The board may request assistance from other state agencies.

(6) The board shall have the following duties:

(a) Provide consultation to the program regarding the functions, duties, and mission of the program;

(b) Serve as a communication conduit between the public and the program staff; and

(c) Provide input to the program regarding the quality and quantity of the services being provided through the program, as well as any other aspects of the program.

The Committee Substitute to **HB 109** is as follows:

HB 109, AN ACT relating to autism spectrum disorders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "autism spectrum disorders" or "ASD" has the same meaning as in KRS 194A.620(2).

(2) The cabinet, in collaboration with the Kentucky Council on Developmental Disabilities, shall draft and submit an application, within three (3) months of the effective date of this Act, to the federal Centers for Medicare and Medicaid Services for a waiver to develop and implement flexible reimbursement and payment strategies that reflect the individually determined needs for services and supports of individuals with ASD.

(3) The waiver shall be written broadly to accommodate the use of a number of revenue streams in order to provide adequate reimbursement to providers of services to individuals with ASD, their families, and caregivers.

(4) The provisions of the waiver shall not preclude individuals with ASD who otherwise meet the applicable eligibility guidelines from continuing to receive, or first seeking to receive, services under any other waiver program approved by:

(a) The Center for Medicare and Medicaid Services;

(b) The authority of the federal Deficit Reduction Act of 2005, as amended; or

(c) Any other provision of federal or state law.

An individual shall not receive services to more than one (1) waiver program simultaneously.

(5) The waiver shall be coordinated with and shall not disqualify Medicaid services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services.

(6) The Department for Medicaid Services shall submit an annual report to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child screened for autism spectrum disorders at eighteen (18) months of age, three (3) years of age, upon enrollment as a regular attendee in any public or private elementary or secondary school, and at the time of the required grade six (6) physical examination.

(2) The Cabinet for Health and Family Services shall establish requirements for ASD screening through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(3) All public or private elementary schools shall require a record of ASD screening for any child enrolled as a regular attendee upon enrollment at any time prior to grade six (6) and an updated record of ASD screening upon enrollment in grade six (6), as provided by administrative regulation of the Cabinet for Health and Family Services promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) If a child is suspected to have ASD following any screening required under this section, the parents, guardians, or other persons having care, custody, or control of the child shall obtain a formal diagnosis by a qualified provider within ninety (90) days following the initial screening.

(5) Nothing in this section shall be construed to require the testing for ASD of any child whose parent or guardian is opposed to the testing on religious grounds as evidenced by a written sworn statement.

(6) As used in this section and Section 3 of this Act, "autism spectrum disorders" or "ASD" has the same meaning as in KRS 194A.620(2).

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Education shall prepare an updated version of the statewide Manual on Autism to incorporate more recent data, best practices, strategies, and other relevant information developed since 1996 in order to assist school districts and educators to more effectively educate children with ASD.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Supports for Individuals with Autism Spectrum Disorders Program to implement and monitor services and supports for individuals with autism spectrum disorder (ASD) and their families and caregivers.

(2) The program shall be attached to the Cabinet for Health and Family Services for administrative purposes and staffed with qualified personnel dedicated to the program. The Cabinet for Health and Family Services shall designate adequate resources for the administration and personnel of the Supports for Individuals with Autism Spectrum Disorders Program.

(3) The program shall:

(a) Serve as a centralized state office and coordinating body to keep an active inventory of services and resources available to individuals with ASD and their families and caregivers. The inventory shall be posted on a user-friendly Web site and promoted to individuals with ASD, their families and caregivers, educators, health care providers and other service providers;

(b) Establish clear guidelines and criteria for service providers to be eligible to seek reimbursement under the program for approved services provided to individuals with ASD and their families and caregivers;

(c) Contract with service providers throughout Kentucky who have been approved by the cabinet for participation in the program to deliver approved services to individuals with ASD covered under the program;

(d) Incorporate, to the fullest extent permitted under the federal Medicaid program, provisions authorizing self-determination and establishing a consumer-directed option, whereby individuals with ASD and their families, and caregivers would have wide discretion in determining the services that are best suited to meet the needs of the individual with ASD and the service providers who are best suited to deliver those services; and

(e) Promote the creation of a comprehensive resource network, including interagency transition teams within agencies responsible for providing services to individuals with ASD, in order to help promote successful transitions for individuals with ASD from childhood to adulthood. The program shall follow strategies recommended by the Commission on Autism Spectrum Disorders to promote the network.

(4) The program shall develop a comprehensive training plan for the systematic training of professionals and paraprofessionals to deliver necessary services to individuals with ASD and their families and caregivers. The program shall contract with the Kentucky Autism Training Center to implement the training plan. The plan shall:

(a) Track and monitor the quantitative and qualitative effectiveness of services delivered to individuals with ASD and their families and caregivers by region;

(b) Encourage public universities to apply for external grants and to develop associate, baccalaureate, and graduate service and training programs and research opportunities that are staffed by both faculty and students;

(c) Identify and utilize regional centers to develop statewide training activities that are coordinated and collaborative, sensitive to and based on local needs, individualized for specific type of service provider, and continuously monitored for outcomes;

(d) Encourage memoranda of agreements with regional centers, in addition to the public universities, that may include education cooperatives, regional early childhood centers, and community mental health centers, in order to coordinate the education and training of educators, health care providers, and other service providers who may interact on a professional basis with individuals with ASD;

(e) The participating regional centers shall be required, under the memoranda of agreements entered into with the program, to review, assemble, formulate, update, and disseminate information regarding best practices for treating individuals with ASD to educators, health care providers, other service providers, and families and caregivers in their region. The training provided by the participating regional centers to educators, health care providers, other service providers, and families and caregivers shall incorporate best practices for treating individuals with ASD as approved by the program; and

(f) Incorporate, the extent practicable, the recommendations of the Commission on Autism Spectrum Disorders.

(5) The program shall enter into an interagency agreement with the Kentucky Department of Education to coordinate, to the extent permitted under law, services provided under the program with services provided in the local districts to children with ASD who are enrolled in the public school system, including but not limited to:

(a) Parent training and resources;

(b) Coordinated training for educators; and

(c) Transition planning.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Supports for Individuals with Autism Spectrum Disorders Program Advisory Board to ensure citizen involvement in the implementation and maintenance of the program within the Cabinet for Health and Family Services. The board shall be composed of nine (9) members as follows:

(a) Two (2) citizens at large appointed by the secretary of the Cabinet for Health and Family Services;

(b) Two (2) ASD service providers appointed by the secretary of the Cabinet for Health and Family Services;

(c) One (1) legal guardian or family member of an individual under the age of eighteen (18) years with ASD appointed by the secretary of the Cabinet for Health and Family Services;

(d) One (1) legal guardian or family member of an individual age eighteen (18) years or over with ASD appointed by the secretary of the Cabinet for Health and Family Services;

(e) Two (2) individuals age twenty-one (21) years or over who have ASD appointed by the secretary of the Cabinet for Health and Family Services;

(f) One (1) representative of the Kentucky Council on Developmental Disabilities appointed by the secretary of the Cabinet for Health and Family Services; and

(g) One (1) representative of the Education Cabinet.

(2) The initial appointments to the board shall be made within one (1) year of the effective date of this Act and the appointments shall be for staggered terms to ensure continuity. Except for initial staggered appointments, board members shall serve for terms of three (3) years and until their successors are appointed. The members of the board shall be eligible for successive terms on the board.

(3) The board shall meet at least quarterly on a date set by the board. Board members shall be reimbursed for necessary expenses incurred in serving on the board.

(4) The board shall annually elect a member to serve as chair and may adopt rules governing the conduct of its meetings, the creation of meeting agendas, and other procedural matters it deems necessary. The board may adopt reporting forms, which shall be developed in consultation with the cabinet.

(5) The cabinet shall provide necessary funding and staff for administrative expenses related to the operation of the board. The board may request assistance from other state agencies.

(6) The board shall have the following duties:

(a) Provide consultation to the program regarding the functions, duties, and mission of the program; and

(b) Provide input to the program regarding the quality and quantity of the services being provided through the program, as well as any other aspects of the program.

HB 234, AN ACT relating to the child care center rating system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.8943 is amended to read as follows:

(1) The Early Childhood Development Authority shall, in consultation with child-care providers, the Cabinet for Health and Family Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, develop a voluntary quality-based graduated child-care rating system for licensed child-care and certified family child-care homes based on, but not limited to:

(a) Child to caregiver ratios;

(b) Child-care staff training;

(c) Program curriculum; and

(d) Program regulatory compliance.

(2) The Cabinet for Health and Family Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement:

(a) The voluntary quality-based graduated child-care rating system for child-care and certified family child-care homes developed under subsection (1) of this section;

(b) Agency time frames of reviews for rating;

(c) An appellate process under KRS Chapter 13B; and

(d) The ability of providers to request reevaluation for rating.

(3) The cabinet shall require a child-care center licensed under KRS 199.896 to meet at least the minimum criteria for the first level of the child-care rating system established under this section. The cabinet may require a child-care center to meet criteria in addition to the first level of the child-care rating system. The cabinet may encourage a child-care center to meet the criteria for the second and higher levels of the child-care rating system.

HB 345, AN ACT relating to cervical cancer immunizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.036 is amended to read as follows:

(1) Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician,

such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for Health and Family Services may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

(2) Any forms relating to exemption from immunization requirements pursuant to subsection (1) of this section shall be available to parents withholding their consent to immunization at public or private primary or secondary schools, preschool programs, day-care centers, certified family child-care homes, or other licensed facilities which care for children.

(3) Exceptions to the requirement for a current immunization certificate for human papillomavirus shall be available for children whose parents exercise the right to withhold their consent for any reason. The form relating to exceptions for immunization for the human papillomavirus shall be made available to parents pursuant to subsection (2) of this section. Parental objection to immunization for human papillomavirus shall not require the written sworn statement required by subsection (1) of this section.

Section 2. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B,[~~ and~~] haemophilis influenzae disease***, and human papillomavirus*** in accordance with testing and immunization schedules established by regulations of the Cabinet for Health and Family Services. Additional immunizations may be required by the Cabinet for Health and Family Services through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health and Family Services promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for Health and Family Services.

(2) A local health department may, with the approval of the Department of Public Health, require all first-time enrollees in a public or private school within the health department's jurisdiction to be tested for tuberculosis prior to entering school. Following the first year of school, upon an epidemiological determination made by the state or local health officer in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health and Family Services. Nothing in this section shall be construed to require the testing for tuberculosis of any child whose parent or guardian is opposed to such testing, and who objects by a written sworn statement to the testing for tuberculosis of the child on religious grounds. However, in a suspected case of tuberculosis, a local health department may require testing of this child.

(3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) All public or private primary schools shall require a current immunization certificate for hepatitis B for any child enrolled as a regular attendee in the sixth grade, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance. This provision shall sunset following the 2008-2009 school year unless otherwise authorized by the General Assembly.

(5) ***All public and private middle schools, as defined in KRS 157.320, shall require a current immunization certificate for human papillomavirus for all female students enrolled as provided in an administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the student's attendance.***

(6) For each child cared for in a day-care center, certified family child-care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

[~~(6) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day care centers, certified family child care homes, or other licensed facilities which care for children.~~]

Section 3. KRS 158.035 is amended to read as follows:

Except as provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a medical or osteopathic physician licensed in any state. The certificate shall state that the child has been immunized against diphtheria, tetanus, poliomyelitis, rubeola,[~~ and~~] rubella***, pertussis, measles,***

mumps, hepatitis B, haemophilis influenzae disease, and human papillomavirus in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036, and 214.990 and the regulations of the secretary for health and family services. The governing body of private and public schools shall enforce the provisions of this section.

The Committee Substitute to **HB 345** is as follows:

HB 345, AN ACT relating to cervical cancer immunizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.036 is amended to read as follows:

(1) Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. ***Parental consent for immunization against human papillomavirus may be withheld for any reason and shall not require a written sworn statement from a parent, guardian, or other person having care, custody, or control of a child.*** Provided, however, that in the event of an epidemic in a given area, the Cabinet for Health and Family Services may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

(2) Forms relating to exemption from immunization requirements pursuant to this section shall be available at public or private primary or secondary schools, preschool programs, day-care centers, certified family child-care homes, or other licensed facilities that care for children.

Section 2. KRS 214.034 is amended to read as follows:

Unless parental consent for immunization has been withheld or a physician has provided a written opinion that immunization or testing would be injurious to the child's health, in accordance with~~[Except as otherwise provided in]~~ KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B,~~[and]~~ haemophilis influenzae disease***, and human papillomavirus*** in accordance with testing and immunization schedules established by regulations of the Cabinet for Health and Family Services. Additional immunizations may be required by the Cabinet for Health and Family Services through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health and Family Services promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for Health and Family Services.

(2) A local health department may, with the approval of the Department of Public Health, require all first-time enrollees in a public or private school within the health department's jurisdiction to be tested for tuberculosis prior to entering school. Following the first year of school, upon an epidemiological determination made by the state or local health officer in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health and Family Services. Nothing in this section shall be construed to require the testing for tuberculosis of any child whose parent or guardian is opposed to such testing, and who objects by a written sworn statement to the testing for tuberculosis of the child on religious grounds. However, in a suspected case of tuberculosis, a local health department may require testing of this child.

(3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) All public or private primary schools shall require a current immunization certificate for hepatitis B for any child enrolled as a regular attendee in the sixth grade, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance. This provision shall sunset following the 2008-2009 school year unless otherwise authorized by the General Assembly.

(5) For each child cared for in a day-care center, certified family child-care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

~~[(6) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day care centers, certified family child-care homes, or other licensed facilities~~

~~which care for children.]~~

Section 3. KRS 158.035 is amended to read as follows:

Except as provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting ***an immunization***~~[a]~~ certificate from a medical or osteopathic physician licensed in any state. The certificate shall state that the child has been immunized~~[against diphtheria, tetanus, poliomyelitis, rubeola, and rubella]~~ in accordance with~~[the provisions of this section and]~~ KRS 214.010, 214.020, 214.032 to 214.036, and 214.990 and the regulations of the secretary for health and family services. The governing body of private and public schools shall enforce the provisions of this section.

HB 352, AN ACT relating to health benefit plan reimbursement of chiropractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) For all services and procedures performed by a chiropractor, all health benefit plans shall adopt current, reasonable, and fair reimbursement schedules and shall reimburse chiropractors at no less than the 2005 Workers' Compensation Medical Fee Schedule for Physicians established in KRS 342.035 and administrative regulations adopted pursuant thereto, or the actual fee submitted, whichever is less.

(b) If a chiropractor enters into an agreement with a managed care plan approved by the executive director of the Office of Insurance, the fee under paragraph (a) of this subsection may be reduced by not more than ten percent (10%).

(c) Benefits for services and procedures performed by chiropractors may be made subject to a deductible, co-payment, or coinsurance as required by the health benefit plan.

(2) A health benefit plan shall reimburse a chiropractor for medically necessary services and procedures if:

(a) The services and procedures are covered under the health benefit plan;

(b) The services and procedures are reimbursed when performed by a chiropractor or any other health care provider; and

(c) The chiropractor who renders the services and procedures is duly qualified to perform such services and procedures.

(3) Each calendar year following the effective date of this Act, the reimbursement fees under paragraph (a) of subsection (1) of this section for services and procedures performed by a chiropractor shall increase by a percentage equal to the percentage increase in the nonseasonally adjusted annual average Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, between the two (2) most recent calendar years available, as published by the United States Bureau of Labor Statistics.

The Committee Substitute to **HB 352** is as follows:

HB 352, AN ACT relating to health benefit plan reimbursement of chiropractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) For all services and procedures performed by a chiropractor, all health benefit plans shall adopt current, reasonable, and fair reimbursement schedules and shall reimburse chiropractors at no less than the 2005 Workers' Compensation Medical Fee Schedule for Physicians established in KRS 342.035 and administrative regulations adopted pursuant thereto, or the actual fee submitted, whichever is less.

(b) If a chiropractor enters into an agreement with a managed care plan approved by the executive director of the Office of Insurance, the fee under paragraph (a) of this subsection may be reduced by not more than ten percent (10%).

(c) Benefits for services and procedures performed by chiropractors may be made subject to a deductible, co-payment, or coinsurance as required by the health benefit plan.

(2) A health benefit plan shall reimburse a chiropractor for medically necessary services and procedures if:

(a) The services and procedures are covered under the health benefit plan;

(b) The services and procedures are reimbursed when performed by a chiropractor or any other health care provider; and

(c) The chiropractor who renders the services and procedures is duly qualified to perform such services and procedures.

(3) Each calendar year following the effective date of this Act, the reimbursement fees under paragraph (a) of subsection (1) of this section for services and procedures performed by a chiropractor shall increase by a percentage equal to the percentage increase in the nonseasonally adjusted annual average Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, between the two (2) most recent calendar years available, as published by the United States Bureau of Labor Statistics.

SECTION 2. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) For all services and procedures performed by a chiropractor, all health benefit plans shall adopt current, reasonable, and fair reimbursement schedules and shall reimburse chiropractors at no less than the 2005 Workers' Compensation Medical Fee Schedule for Physicians established in KRS 342.035 and administrative regulations adopted pursuant thereto, or the actual fee submitted, whichever is less.

(b) If a chiropractor enters into an agreement with a managed care plan approved by the executive director of the Office of Insurance, the fee under paragraph (a) of this subsection may be reduced by not more than ten percent (10%).

(c) Benefits for services and procedures performed by chiropractors may be made subject to a deductible, co-payment, or coinsurance as required by the health benefit plan.

(2) A health benefit plan shall reimburse a chiropractor for medically necessary services and procedures if:

(a) The services and procedures are covered under the health benefit plan;

(b) The services and procedures are reimbursed when performed by a chiropractor or any other health care provider; and

(c) The chiropractor who renders the services and procedures is duly qualified to perform such services and procedures.

(3) Each calendar year following the effective date of this Act, the reimbursement fees under paragraph (a) of subsection (1) of this section for services and procedures performed by a chiropractor shall increase by a percentage equal to the percentage increase in the nonseasonally adjusted annual average Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, between the two (2) most recent calendar years available, as published by the United States Bureau of Labor Statistics.

HB 362, AN ACT relating to safety for state social service workers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly authorizes up to three hundred seventy-five (375) new staff positions within the Division of Service Regions of the Department for Community Based Services. The new positions shall be in addition to the department's personnel cap in effect on July 1, 2006, and the department shall include the new positions in the department's base funding for state fiscal year 2008-2009 and state fiscal year 2009-2010.

(2) The General Assembly directs the cabinet to provide a safe office environment and to improve policies and procedures to enhance the safety of protective services social service workers and all employees of the cabinet.

(3) In honor of Boni Frederick who lost her life in the line of duty, Sections 1, 2, 3, and 4 to 6 of this Act shall be known as the "Boni Frederick Bill."

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Department for Community Based Services shall establish an ongoing Safety Committee composed of:

(a) The secretary of the cabinet or designee;

(b) The commissioner of the Department for Community Based Services who shall serve as chair;

(c) The commissioner of the Department for Human Support Services or designee;

(d) The commissioner of the Kentucky State Police or designee;

(e) One (1) representative from the University of Kentucky College of Social Work, appointed by the dean of the college, and one (1) representative from the University of Louisville Kent School of Social Work, appointed by the dean of the college;

(f) One (1) Department for Community Based Services staff member from each service region with experience in providing protective services to families;

(g) The safety liaison officer of the Department for Community Based Services;

(h) One (1) representative of the Department for Community Based Services who has responsibility for training staff of the Division of Service Regions of the Department for Community Based Services;

(i) One (1) member of the House of Representatives, appointed by the Speaker of the House, and one (1) member of the Senate, appointed by the Senate President, both of whom shall serve in an advisory capacity; and

(j) Other members as deemed appropriate by the cabinet secretary.

(2) The Office of the Commissioner of the Department for Community Based Services shall provide administrative assistance to the Safety Committee.

(3) The Safety Committee shall meet at least biennally and may meet more frequently upon call of the chair. The Safety Committee shall conduct its first meeting no later than April 15, 2007.

(4) The Safety Committee shall study and report on, but is not limited to, activities, incident database reports, recommendations, and changes in policies and procedures associated with the implementation of Section 4 of this Act.

(5) The cabinet shall report on all costs and expenditures associated with the implementation of Section 4 of this Act.

(6) The reports required under subsections (4) and (5) of this section shall be submitted to the Governor, the secretary of the cabinet, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Health and Welfare, and the Blue Ribbon Task Force on Front-Line-Safety established in Section 5 of this Act by October 1 of each year.

Section 3. KRS 194A.065 is amended to read as follows:

(1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.

(3) The Cabinet for Health and Family Services shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.

(4) The secretaries of the Cabinet for Health and Human Services and Justice Cabinet shall establish communications, policies, and procedures to enable designated cabinet staff who are working on a protective services investigation or an ongoing protective services case to have all available criminal history information within a reasonable time frame, but no later than one (1) hour after receipt of a request for criminal history information. Designated staff of the Cabinet for Health and Family Services may request criminal history information at any time for a protective services investigation and cabinet staff may use criminal background information to assess staff safety concerns.

SECTION 4. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of Sections 4 to 6 of this Act, "front-line staff" means an employee of the Division of Service Regions of the Department for Community Based Services, or the immediate supervisor of an employee, whose professional duties include regular and ongoing adult or child protective services and related investigations and assessments and who is expected to regularly conduct interviews, visit, contact, or provide transportation services or other services in the homes of family members involved in adult or child protective services.

(2) Each staff member of the department shall report to his or her supervisor any physical or verbal conduct of a client, or an individual associated with a client that appears to be threatening or menacing, and any incident of assault, attempted assault, or physical contact that appears to be threatening to any staff member. Any use or threat of use of any type of weapon shall be reported. The supervisor shall report threat and incident information to the commissioner of the department or designee.

(3) The department shall establish and maintain an information system and track all reports of threats or incidents involving violence against department staff as required by subsection (2) of this section. The department shall provide, upon request, the number and type of reports received and any information available regarding civil or criminal action or changes to policies and procedures resulting from threats or incidents of violence upon staff.

(4) The department shall designate or establish a safety liaison position within its central office and in each regional office. The regional administrator may designate or establish a safety liaison position in each county office. The duties of the central office safety liaison shall include, but are not limited to:

- *(a) Development and implementation of policies and procedures related to the prevention of violence in the office and in community settings;*
- *(b) Screening and assessment of the level of threat for professional-client interactions;*
- *(c) Facilitation of safety training and safety and first-alert protocols with all law enforcement agencies that work with each county office. Safety protocols shall address the accompaniment of social workers by law enforcement personnel when requested or warranted. All law enforcement agencies shall assist cabinet staff upon request. Existing multidisciplinary teams may be utilized in the development of local safety protocols; and*
- *(d) Administration of a Web-based social worker safety site and a threat-and-violence-incident database.*

(5) To the extent that funding is appropriated to implement the provisions of this subsection:

- *(a) The cabinet shall review the physical settings and environment of all front-line staff offices throughout the Commonwealth and provide the means to upgrade all local offices to improve safety features. The cabinet shall seek assistance from the Kentucky State Police, the Department of Criminal Justice Training, and local law enforcement agencies, and each agency shall provide assistance in the review of office space upon request. The review of office space shall be completed by the effective date of this Act, and all upgrades shall be targeted for*

completion by October 1, 2007. Safety upgrades initiated, planned, or contemplated that are not completed by October 1, 2007, and associated costs, shall be reported as required by subsection (5) of Section 2 of this Act.

(b) The department shall provide training on personal safety, threat assessment, de-escalation, and self-defense techniques for all front-line staff and require all front-line staff to participate in the training no less than twice per calendar year. The training shall be conducted by instructors who are qualified or certified in personal safety training or law enforcement training. The department shall provide staff training on cardiopulmonary resuscitation and first aid on a regularly scheduled basis.

(c) 1. The cabinet shall provide emergency-alert technology and equipment that includes global positioning capabilities of sufficient quality and quantity to provide a personal safety-alert device for each front-line staff member. All front-line staff shall be made aware of geographic areas of the state where emergency-alert technology or global-positioning devices are inoperable.

2. Any state-owned vehicle used by department staff shall have an operable personal safety-alert device and global-positioning capability. If requested by a front-line staff member, the cabinet shall provide an operable personal safety-alert device and global-positioning capability for the staff member's personal vehicle to be used in performance of his or her duties.

3. The department shall provide cellular telephones and other necessary technology improvements for all front-line staff of the Division of Service Regions.

(d) 1. In conjunction with community partners, the department shall establish supervised visitation services in each regional office in locations other than a local department office or a parent's home for visits between parents and children in custody of the cabinet. The number of supervised visitation sites shall be sufficient to meet the needs of each local office. The department's use of supervised visitation sites shall be optional for each parent-child visitation, and all visitation locations shall be specified in the case plan.

2. A supervised visitation site shall be appropriate for parents and children and shall be reasonably accessible to parents.

3. The department may establish secure visitation centers in each region. For the purposes of this subparagraph, "secure visitation center" means a safe, secure, and appropriate environment for supervised visitation and neutral exchange services.

4. Fees collected for visitation services pursuant to KRS 605.130(3) shall be deposited into a trust and agency account and shall be expended solely for visitation services.

(e) The department shall implement a Parent Advocate Program of peer-to-peer support that partners individuals who do not have an open child protective services case with families new to the child protective services system. At least one (1) Parent Advocate Program shall be established in each region. All parents involved with child protective services shall be informed of the Parent Advocate Program.

SECTION 5. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

(1) There is established a Blue Ribbon Task Force on Front-Line Staff within the Department for Community Based Services. The Office of the Commissioner of the department shall provide administrative support for the task force.

(2) The Blue Ribbon Task Force on Front-Line Staff shall be composed of:

(a) The commissioner of the department;

(b) The secretary of the Personnel Cabinet or designee;

(c) Two (2) representatives from two (2) different public postsecondary institutions and two (2) representatives from two (2) different private postsecondary institutions that offer undergraduate degrees or coursework in social work;

(d) The president of the Kentucky Chapter of the National Association of Social Workers or designee;

(e) Three (3) members of the Field Staff Subcommittee established under subsection (4) of this section, one (1) of whom shall be an at-large member;

(f) Two (2) members of the House of Representatives, one (1) of whom shall be a member of the majority party and one (1) of whom shall be a member of the minority party, appointed by the Speaker of the House, and two (2) members of the Senate, one (1) of whom shall be a member of the majority party and one (1) of whom shall be a member of the minority party, appointed by the Senate President. Members appointed under this paragraph shall serve in an advisory capacity;

(g) A representative of a national child welfare organization with experience in caseload review; and

(h) Other members as deemed necessary by the cabinet secretary.

(3) The members of the task force shall elect co-chairpersons, one (1) of whom shall be a member of the Field Staff Subcommittee. The commissioner of the department shall not serve as a co-chairperson.

(4) The Blue Ribbon Task Force on Front-Line Staff may establish subcommittees as deemed necessary and shall establish a Field Staff Subcommittee composed of twenty (20) front-line staff from local offices of the Division of

Service Regions. Two (2) front-line staff members from each region shall be elected by all staff members of the region and two (2) at-large front-line members shall be elected by all front-line staff.

(a) Each member of the Field Staff Subcommittee shall be a front-line staff member; however, the number of supervisors shall not exceed the number of nonsupervisory staff.

(b) Members of the Field Staff Subcommittee shall be permitted to communicate and meet with other cabinet employees, legislators, and the public about the subcommittee or the task force, and a member or members shall present any work product or recommendation of the Field Staff Subcommittee to legislative committees upon request.

(c) Field Staff Subcommittee members may recommend terms of service, term limits, or other issues relating to the subcommittee for approval by a majority of the members of the task force.

(5) No later than November 1, 2007, the task force shall make recommendations that include, but are not limited to, the following issues:

(a) Staff salary, pay scale and pay equity, and career ladder issues;

(b) Staff recruitment and retention strategies, including but not limited to staff turnover rates per job classification, mentoring or partnering new staff, and retention incentives;

(c) Undergraduate and graduate education and training in social work and other degree programs regarding job preparation, including recruitment issues;

(d) Streamlining state government hiring processes and practices for critical protective services positions;

(e) A definition of worker caseload, weighting measures, and a formula for determining worker caseload if applicable;

(f) Caseload averages as required by KRS 199.461, including a recommendation on optimal caseloads; however, if the task force ceases to exist as specified in subsection (8) of this section, the commissioner of the Department for Community Based Services shall resume responsibility for reporting caseload averages;.

(g) Staff safety issues, including but not limited to safe practices for exposure to and handling of hazardous or toxic materials or substances; and

(h) Staff training, technology, support, and administrative needs.

(6) Task force and subcommittee members shall not receive compensation for their duties but shall be reimbursed for expenses related to meeting attendance and associated duties with the task force in accordance with administrative regulations applicable to state employees. Department employees who are members of the task force or subcommittee may attend meetings and perform duties related to the task force or subcommittee as part of their official duties. The use of telecommunications is encouraged.

(7) The task force and any subcommittee shall have access to any department data and information necessary to meet the requirements of this section. To assist the task force, the department shall provide to the task force at its first meeting baseline data that includes but is not limited to the number of staff positions by classification, salary ranges per classification, number of staff vacancies by position and by county, and caseloads per social services worker that indicate the total number of families and the number of family members involved.

(8) The Blue Ribbon Task Force on Front-Line Staff shall cease to exist on July 1, 2008, unless otherwise authorized by the General Assembly.

SECTION 6. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

Beginning July 1, 2007, the Department for Community Based Services shall report quarterly to the Interim Joint Committee on Appropriations and Revenue Committee and the Interim Joint Committee on Health and Welfare the number of social services employees who have been hired, dismissed, retired, or experienced other status change, the number of vacancies by position and classification. The report shall include all positions established under subsection (1) of Section 1 of this Act.

Section 7. Whereas the social workers employed by the Commonwealth of Kentucky are subject to dangerous circumstances, and children and citizens of the Commonwealth deserve an adequate response to allegations of adult or child abuse, neglect, or exploitation, an emergency is declared to exist and this Act takes effect upon it passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 362** is as follows:

HB 362, AN ACT relating to safety for state social service workers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

In honor of Boni Frederick who lost her life in the performance of her official duties, Sections 1 to 6 of this Act shall be known as the "Boni Frederick Bill."

Section 2. KRS 194A.065 is amended to read as follows:

For the purposes of this section, "front line staff" means an employee of the Division of Service Regions of the Department for Community Based Services or the immediate supervisor of an employee whose professional duties include ongoing adult or child protective services, protective services investigations or assessments, or regularly conducting interviews, visits, contacts, or providing transportation services or other services in the homes of family members involved in adult or child protective services.

(1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.

(3) The Cabinet for Health and Family Services shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.

(4) The cabinet secretary and the secretary of the Justice Cabinet shall establish communications, policies, and procedures to enable designated cabinet staff of the Department for Community Based Services who are working on a protective services investigation or an ongoing protective services case to request a state criminal background check, and within a reasonable time frame, but no later than one (1) hour after receipt of a request, to have the state criminal background check sent to designated cabinet staff. Designated cabinet staff may request a state criminal background check at any time for a protective services investigation and may use the state criminal background check to assess staff safety concerns.

(5) The Cabinet for Health and Family Services shall prioritize the safety needs of the front line staff of the Department for Community Based Services and provide improvements in accordance with Sections 3 and 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

(1) Each staff member of the department shall report to his or her supervisor any physical or verbal conduct of a client or an individual associated with a client that appears to be threatening or menacing, and any incident of assault, attempted assault, or physical contact that appears to be threatening to any staff member. Any use or threat of use of any type of weapon shall be reported. The supervisor shall report threat or incident information to the commissioner of the department or his or her designee. An employee who reports under this subsection shall be protected from reprisals pursuant to KRS 61.102.

(2) The department shall establish and maintain an information system and track all reports of threats or incidents involving violence against department staff as required by subsection (1) of this section. The department shall provide, upon request, the number and type of reports received and any information available regarding civil or criminal action or changes to policies and procedures resulting from threats or incidence of violence upon staff.

(3) The department shall designate or establish a safety liaison position within its central office and in each regional office. The regional administrator may designate or establish a safety liaison position in each county office. The duties of the central office safety liaison shall include but not be limited to:

(a) Development and implementation of policies and procedures related to the prevention of violence in the office and in community settings;

(b) Screening and assessment of the level of threat for professional-client interactions;

(c) Facilitation of safety training and safety and first alert protocols with all law enforcement agencies that work with each county office. Existing multidisciplinary teams may be utilized in the development of local safety protocols; and

(d) Administration of a Web-based social worker safety site and a threat and violence incident database.

SECTION 4. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

Beginning July 1, 2007, the Department for Community Based Services shall report quarterly to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare the number of social services employees who have been hired, dismissed, retired, or experienced other status change and the number of vacancies by position and classification for the Division of Service Regions.

Section 5. (1) Whereas, the House of Representatives of the General Assembly finds that state social workers may be placed in dangerous situations while performing their official duties and acknowledges the hazardous nature of state protective services and expresses sincere gratitude to the professionals throughout Kentucky who dedicate themselves to helping families in need of services; and

(2) Whereas, there is a need to improve agency policies and procedures to improve the safety of state social workers; and

(3) Whereas, there is continuing concern about overburdened state social workers and large caseloads that may impact the quality of protective and family services;

(4) The Legislative Research Commission is directed to establish a legislative task force on front line staff. The task force on front line staff shall be composed of the following members:

(a) The secretary of the Cabinet for Health and Family Services or designee;

(b) Two representatives from two different public postsecondary institutions and two representatives from two different private postsecondary institutions that offer undergraduate degrees or coursework in social work to be appointed by the Legislative Research Commission from a list of at least eight persons submitted by the Council on Postsecondary Education;

(c) One representative from the University of Kentucky College of Social Work, appointed by the dean of the college and one representative from the University of Louisville Kent School of Social Work appointed by the dean of the college;

(d) The president of the Kentucky Chapter of the National Association of Social Workers or designee;

(e) Three members of the field staff subcommittee established under subsection (6) of this section, one of whom shall be an at-large member appointed by the Legislative Research Commission;

(f) Two members of the House of Representatives, one of whom shall be a member of the majority party who shall serve as co-chair and one of whom shall be a member of the minority party, appointed by the Speaker of the House and two members of the Senate, one of whom shall be a member of the majority party who shall serve as co-chair and one of whom shall be a member of the minority party, appointed by the Senate President;

(g) A representative of a national child welfare organization with experience in caseload review, appointed by the Legislative Research Commission from a list of at least five individuals submitted by the Kentucky Chapter of the National Association of Social Workers;

(h) The safety liaison officer of the Department for Community Based Services;

(i) One Department for Community Based Services staff member who has responsibility for training staff of the Division of Service Regions of the Department for Community Based Services, appointed by the Legislative Research Commission from a list of at least five names submitted by the commissioner of the department; and

(j) Other members as deemed necessary and appointed by the Legislative Research Commission.

(5) The task force shall conduct its first meeting no later than April 15, 2007. Any state employee member of the task force shall be protected from reprisals pursuant to KRS 61.102.

(6) The task force shall establish a field staff subcommittee and may establish other subcommittees as deemed necessary.

(a) The field staff subcommittee shall be composed of 20 front line staff from local offices of the Division of Service Regions. Two front line staff members from each region shall be elected by all staff members of the region and two at-large front line members shall be elected by all front line staff.

(b) Each member of the field staff subcommittee shall be a front line staff member; however, the number of supervisors shall not exceed the number of non-supervisory staff.

(c) Members of the field staff subcommittee shall be permitted to communicate and meet with other cabinet employees, legislators, and the public about the subcommittee or the task force.

(7) No later than December 15, 2007, the task force shall report and make recommendations that include but are not limited to the following issues:

(a) Staff salary, pay scale and pay equity, and career ladder issues;

(b) Staff recruitment and retention strategies, including but not limited to staff turnover rates per job classification, mentoring or partnering new staff, and retention incentives;

(c) Undergraduate and graduate education and training in social work and other degree programs regarding job preparation, including recruitment issues;

(d) Streamlining state government hiring processes for critical protective services positions;

(e) A definition for worker caseload, weighting measures, and a formula for determining worker caseload if applicable;

(f) Caseload averages as required by KRS 199.461 during the duration of the task force, including a recommendation on optimal caseloads;

(g) Staff safety issues, including but not limited to:

1. Staff needs for training on personal safety, threat assessment, de-escalation, and self-defense;

2. Emergency alert systems, global positioning technology, and personal safety alert devices for front line staff; and

3. Safe practices for exposure to and handling of hazardous or toxic materials or substances; and

(h) Staff training, technology, support, and administrative needs.

(8) All recommendations shall include estimated costs for implementation.

(9) Task force members shall not receive compensation for their duties but shall be reimbursed for expenses related to meeting attendance and associated duties with the task force pursuant to state employee travel administrative regulations. Department employees who are members of the task force or its subcommittees may attend meetings and perform duties related to the task force or its subcommittees as part of their official duties. The use of telecommunications is encouraged.

(10) The task force and its subcommittees shall have access to any department data and information necessary to meet the requirements of this section. To assist the task force, the department shall provide to the task force at its first meeting baseline

personnel data that includes but is not limited to the number of staff positions by classification, salary ranges per classification, the number of staff vacancies by position and by county, and caseloads per state social services worker that indicate the total number of families and the number of family members involved.

(11) The report required under subsection (7) of this section shall be submitted to the Governor, the secretary of the cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare.

(12) The legislative task force on front line staff shall cease to exist on July 1, 2008, unless otherwise authorized by the General Assembly.

Section 6. Notwithstanding 2006 Ky. Acts Chapter 252, Part III, General Provisions, 5. Appropriations Expenditure Purpose and Transfer Restrictions, the secretary of the Cabinet for Health and Family Services shall be authorized to transfer moneys from the general fund, restricted funds, or federal funds, with the approval of the State Budget Director, to the extent funds are available and not otherwise obligated to carry out the provisions of KRS Chapters 194A, 200, 202A, 202B, 205, 209, 209A, 210, 211, 212, 213, 214, 215, 216A, 216B, 217, 217A, 217B, and 217C, up to a total of $2,500,000 in the 2006-2008 fiscal biennium from other budget units within the Cabinet to the Department for Community Based Services, Division of Service Regions, to address immediate emergency safety needs of front line staff, pending implementation of any recommendations of the legislative task force on front line staff pursuant to Section 5 of this Act, and the transfer of any funds pursuant to this section shall be subject to the provisions and notification requirements of KRS 48.630.

Section 7. Whereas the social workers employed by the Commonwealth of Kentucky are subject to dangerous circumstances, and children and citizens of the Commonwealth deserve an adequate response to allegations of adult or child abuse, neglect, or exploitation, an emergency is declared to exist and this Act takes effect upon it passage and approval by the Governor or upon its otherwise becoming law.

HB 152, AN ACT relating to trauma care, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that:

(1) Trauma is a severe health problem in this state and a major cause of death and long-term disability;

(2) Trauma care is an essential public service;

(3) Trauma care is significantly limited in many parts of Kentucky, particularly in rural areas where there is a growing danger that some communities may not have adequate emergency care;

(4) It is essential for persons in need of trauma care to receive that care within sixty (60) minutes immediately following injury, referred to as the "golden hour," for that is when the potential for survival is the greatest, and the need for treatment for shock or injury is most critical;

(5) Kentucky's emergency preparedness efforts require the establishment of an efficient statewide trauma care system that can be mobilized to save the lives of trauma patients who are victims of terrorism or natural disasters;

(6) Trauma centers save lives and save money because access to trauma care can mean the difference between full recovery and serious disability that requires expensive long-term care and results in a loss of economic productivity;

(7) It is in the best interests of the citizens of Kentucky to establish an efficient and well-coordinated statewide trauma system to reduce costs of medical care and the greater economic impact of lost wages and productivity, and to reduce the incidence of inappropriate and inadequate trauma care and emergency medical services; and

(8) Existing trauma centers are facing an increasing number of uninsured patients, declining reimbursement, and rising malpractice insurance premiums that threaten continued community access to trauma care; therefore, financial assistance is needed to support existing trauma centers and establish new trauma centers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

For the purposes of Section 1 to 4 of this Act:

(1) "Trauma" has the same meaning as defined in KRS 311A.010;

(2) "Trauma center" means a hospital that has institutional, surgical, and specialty care and commitment to treating individuals with injuries and that has been verified by the American College of Surgeons or by the Office of Trauma Care; and

(3) "Trauma center verification" means the process by which a trauma center is evaluated and designated as a trauma center by the American College of Surgeons or the Office of Trauma Care.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is created an Office of Trauma Care within the Department for Public Health that shall, at a minimum, consist of a state trauma care director, a state trauma registrar, and an administrative assistant. The department may contract with outside entities to perform these functions.

(2) The Office of Trauma Care shall develop and implement a comprehensive, statewide trauma care system that

addresses, but is not limited to, the following goals:

(a) To reduce or prevent death and disability from trauma without regard to the patient's insurance coverage or ability to pay for services;

(b) To provide optimal care for trauma victims by utilization of best practices protocols and guidelines;

(c) To minimize the economic impact of lost wages and productivity for trauma patients; and

(d) To contain costs of trauma care.

(3) The Office of Trauma Care shall establish an advisory committee to assist in the development, implementation, and continuation of its duties. The advisory committee shall be appointed by the secretary of the Cabinet for Health and Family Services and shall be composed of representatives from the following agencies and organizations:

(a) The Department for Public Health;

(b) The Kentucky Board of Medical Licensure;

(c) The Kentucky Board of Nursing;

(d) The Kentucky Board of Emergency Medical Services;

(e) The Kentucky Medical Association;

(f) The Kentucky Hospital Association;

(g) The Kentucky Committee on Trauma of the American College of Surgeons; and

(h) Other representatives at the discretion of the secretary.

(4) The Office of Trauma Care, in consultation with the advisory committee, shall develop and implement a statewide trauma care system, integrated with the public health system for injury prevention, that recognizes levels of care for the appropriate delivery of a full range of medical services to all trauma patients in the Commonwealth. The statewide trauma care system shall include but is not limited to:

(a) Development and implementation of trauma prevention and education initiatives;

(b) Facilitation of appropriate education and continuing education about trauma care and procedures for physicians, nurses, and emergency medical services personnel;

(c) Development and statewide distribution of guidelines and protocols for the care and treatment of trauma victims that include the needs of special populations and are fully integrated with all available resources including, but not limited to, emergency medical services, physicians, nurses, and hospitals;

(d) Voluntary hospital trauma center verification through the American College of Surgeons or the Office of Trauma Care;

(e) Local and regional triage and transport protocols for use by the Kentucky Board of Emergency Medical Services, emergency medical services providers, and emergency rooms; and

(f) Continuing quality assurance and peer review programs.

(5) The Office of Trauma Care shall coordinate activities related to the care of trauma patients with other state agencies and boards that are directly or indirectly involved with care of injured persons. Upon request of the Office of Trauma Care, other state agencies and boards shall assist and facilitate the development and implementation of a statewide trauma care system.

(6) Data obtained through a trauma registry or other data collected pursuant to Sections 1 to 4 of this Act shall be confidential and for use solely by the Department for Public Health, the Office of Trauma Care and its advisory council, and persons or public or private entities that participate in data collection for the trauma registry. Personal identifying information that is collected for use in the trauma registry shall not be subject to discovery or introduction into evidence in any civil action.

(7) The Office of Trauma Care shall report by December 1 each year to the Interim Joint Committee on Health and Welfare on the status of the development and implementation of the statewide trauma system.

(8) The Office of Trauma Care may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky trauma care system fund is created as a separate revolving fund that shall consist of state general fund appropriations and other grants, contributions, or other moneys made available for the purposes of Sections 1 to 4 of this Act.

(2) The trauma care system fund shall be used to support:

(a) Administrative costs of the Office of Trauma Care, including public awareness and information efforts;

(b) The implementation of the statewide trauma care system;

(c) Expenses related to hospital trauma center verification;

(d) Continuing education for trauma care providers; and

(e) Support for uncompensated care provided by hospitals, physicians, nurses, emergency medical services, or other trauma care providers who provide services in a verified trauma center. Verified trauma centers shall have the authority to contract with state government for receipt of funds under this paragraph.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Medicaid payments for covered services provided to Medicaid patients, including those enrolled in a managed care organization, shall cover the Medicaid allowable costs of any hospital that obtains or maintains verification as a trauma center under Sections 1 to 4 of this Act.

Section 6. There is hereby appropriated to the Kentucky trauma care system fund created in Section 4 of this Act five million dollars ($5,000,000) for state fiscal year 2007-2008. The source of these funds shall be funds realized from savings associated with KyHealth Choices, Kentucky's Medicaid Program. Amounts not expended at the close of the fiscal year shall not lapse, but shall be carried forward to the next fiscal year. Any interest earnings of the fund shall become part of the fund and shall not lapse.

The Committee Substitute to **HB 152** is as follows:

HB 152, AN ACT relating to trauma care, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that:

(1) Trauma is a severe health problem in this state and a major cause of death and long-term disability;

(2) Trauma care is an essential public service;

(3) Trauma care is significantly limited in many parts of Kentucky, particularly in rural areas where there is a growing danger that some communities may not have adequate emergency care;

(4) It is essential for persons in need of trauma care to receive that care within sixty (60) minutes immediately following injury, referred to as the "golden hour," for that is when the potential for survival is the greatest, and the need for treatment for shock or injury is most critical;

(5) Kentucky's emergency preparedness efforts require the establishment of an efficient statewide trauma care system that can be mobilized to save the lives of trauma patients who are victims of terrorism or natural disasters;

(6) Trauma centers save lives and save money because access to trauma care can mean the difference between full recovery and serious disability that requires expensive long-term care and results in a loss of economic productivity;

(7) It is in the best interests of the citizens of Kentucky to establish an efficient and well-coordinated statewide trauma system to reduce costs of medical care and the greater economic impact of lost wages and productivity, and to reduce the incidence of inappropriate and inadequate trauma care and emergency medical services; and

(8) Existing trauma centers are facing an increasing number of uninsured patients, declining reimbursement, and rising malpractice insurance premiums that threaten continued community access to trauma care; therefore, financial assistance is needed to support existing trauma centers and establish new trauma centers.

SECTION 2: A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

For the purposes of Section 1 to 4 of this Act:

(1) "Trauma" has the same meaning as defined in KRS 311A.010;

(2) "Trauma center" means a hospital that has institutional, surgical, and specialty care and commitment to treating individuals with injuries and that has been verified by the American College of Surgeons or by the Office of Trauma Care; and

(3) "Trauma center verification" means the process by which a trauma center is evaluated and designated as a trauma center by the American College of Surgeons or the Office of Trauma Care.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is created an Office of Trauma Care within the Department for Public Health that shall, at a minimum, consist of a state trauma care director, a state trauma registrar, and an administrative assistant. The department may contract with outside entities to perform these functions.

(2) The Office of Trauma Care shall develop and implement a comprehensive, statewide trauma care system that addresses, but is not limited to, the following goals:

(a) To reduce or prevent death and disability from trauma without regard to the patient's insurance coverage or ability to pay for services;

(b) To provide optimal care for trauma victims by utilization of best practices protocols and guidelines;

(c) To minimize the economic impact of lost wages and productivity for trauma patients; and

(d) To contain costs of trauma care.

(3) The Office of Trauma Care shall establish an advisory committee to assist in the development, implementation, and continuation of its duties. The advisory committee shall be appointed by the secretary of the Cabinet for Health and Family Services and shall be composed of representatives from the following agencies and organizations:

(a) The Department for Public Health;

(b) The Kentucky Board of Medical Licensure;

(c) The Kentucky Board of Nursing;

(d) The Kentucky Board of Emergency Medical Services;

(e) The Kentucky Medical Association;

(f) The Kentucky Hospital Association;

(g) The Kentucky Committee on Trauma of the American College of Surgeons;

(h) The Kentucky Telehealth Network;

(i) The Emergency Nurses Association; and

(j) Other representatives at the discretion of the secretary.

(4) The Office of Trauma Care, in consultation with the advisory committee, shall develop and implement a statewide trauma care system, integrated with the public health system for injury prevention, that recognizes levels of care for the appropriate delivery of a full range of medical services to all trauma patients in the Commonwealth. The statewide trauma care system shall include but is not limited to:

(a) Development and implementation of trauma prevention and education initiatives;

(b) Facilitation of appropriate education and continuing education about trauma care and procedures for physicians, nurses, and emergency medical services personnel;

(c) Development and statewide distribution of guidelines and protocols for the care and treatment of trauma victims that include the needs of special populations and are fully integrated with all available resources including, but not limited to, emergency medical services, physicians, nurses, and hospitals;

(d) Voluntary hospital trauma center verification through the American College of Surgeons or the Office of Trauma Care;

(e) Local and regional triage and transport protocols for use by the Kentucky Board of Emergency Medical Services, emergency medical services providers, and emergency rooms; and

(f) Continuing quality assurance and peer review programs.

(5) The Office of Trauma Care shall coordinate activities related to the care of trauma patients with other state agencies and boards that are directly or indirectly involved with care of injured persons. Upon request of the Office of Trauma Care, other state agencies and boards shall assist and facilitate the development and implementation of a statewide trauma care system.

(6) Data obtained through a trauma registry or other data collected pursuant to Sections 1 to 4 of this Act shall be confidential, including personal identifying information that is needed for use in the trauma registry, and that shall be used solely by the Department for Public Health, the Office of Trauma Care and its advisory council, and persons or public or private entities that participate in data collection for the trauma registry.

(7) The Office of Trauma Care shall report by December 1 each year to the Interim Joint Committee on Health and Welfare on the status of the development and implementation of the statewide trauma system.

(8) The Office of Trauma Care may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky trauma care system fund is created as a separate revolving fund that shall consist of state general fund appropriations and other grants, contributions, or other moneys made available for the purposes of Sections 1 to 4 of this Act.

(2) The trauma care system fund shall be used to support:

(a) Administrative costs of the Office of Trauma Care, including public awareness and information efforts;

(b) The implementation of the statewide trauma care system;

(c) Expenses related to hospital trauma center verification;

(d) Continuing education for trauma care providers; and

(e) Support for uncompensated care provided by hospitals, physicians, nurses, emergency medical services, or other trauma care providers who provide services in a verified trauma center. Verified trauma centers shall have the authority to contract with state government for receipt of funds under this paragraph.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Medicaid payments for covered services provided to Medicaid patients, including those enrolled in a managed care

organization, shall cover the Medicaid allowable costs of any hospital that obtains or maintains verification as a trauma center under Sections 1 to 4 of this Act.

[~~Section 6. There is hereby appropriated to the Kentucky trauma care system fund created in Section 4 of this Act five million dollars ($5,000,000) for state fiscal year 2007-2008. The source of these funds shall be funds realized from savings associated with KyHealth Choices, Kentucky's Medicaid Program. Amounts not expended at the close of the fiscal year shall not lapse, but shall be carried forward to the next fiscal year. Any interest earnings of the fund shall become part of the fund and shall not lapse.~~]

The Committee Amendment No. 1 Title to **HB 152** is as follows:

HB 152, Amend title to read "AN ACT relating to trauma care."

HB 196, AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.075 is amended to read as follows:

(1) If a licensee issues payment for a license to the board[~~ by a bank check~~] that is dishonored by the bank or financial institution upon which it is drawn, and the licensee fails to reimburse the board for the amount[~~ of the check~~] and any applicable fee within thirty (30) days of written notice from the board, the board may initiate action for the immediate temporary suspension of the license under KRS 314.089 until the licensee pays the required fee and meets all requirements for reinstatement of the license. The board shall mail written notice[~~ of the dishonored check~~] to the licensee's address on record with the board.

(2) A licensee whose license is suspended under subsection (1) of this section may request an emergency hearing under the provisions of KRS 13B.125.

(3) Nothing in this section shall supersede the provisions of KRS 314.091.

Section 2. KRS 314.091 is amended to read as follows:

(1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing;

(b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means but is not limited to pleading no contest, entering an Alford plea, ***entering a guilty plea pursuant to a pretrail diversion order,*** or entry of a court order suspending the imposition of a criminal penalty to a crime;

(c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

(d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

(f) Abuses use of controlled substances, prescription medications, or alcohol;

(g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;

(h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;

(i) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;

(j) Has violated any of the provisions of this chapter;

(k) Has violated any lawful order or directive previously entered by the board;

(l) Has violated any administrative regulation promulgated by the board; or

(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, privilege, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, privilege, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 3. KRS 314.109 is amended to read as follows:

Any person under the jurisdiction of the board shall~~[, within thirty (30) days of entry of the final judgment,]~~ notify the board in writing of any misdemeanor or felony criminal conviction, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol, in this or any other jurisdiction. The person shall submit a certified copy of the order and a letter of explanation.~~[Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.]~~

HB 337, AN ACT relating to Medicaid reimbursement for smoking cessation treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:

1. Phenylketonuria;
2. Hyperphenylalaninemia;
3. Tyrosinemia (types I, II, and III);
4. Maple syrup urine disease;
5. A-ketoacid dehydrogenase deficiency;
6. Isovaleryl-CoA dehydrogenase deficiency;
7. 3-methylcrotonyl-CoA carboxylase deficiency;

8. 3-methylglutaconyl-CoA hydratase deficiency;
9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
10. B-ketothiolase deficiency;
11. Homocystinuria;
12. Glutaric aciduria (types I and II);
13. Lysinuric protein intolerance;
14. Non-ketotic hyperglycinemia;
15. Propionic acidemia;
16. Gyrate atrophy;
17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
18. Carbamoyl phosphate synthetase deficiency;
19. Ornithine carbamoyl transferase deficiency;
20. Citrullinemia;
21. Arginosuccinic aciduria;
22. Methylmalonic acidemia; and
23. Argininemia;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

(h) Services provided by health-care delivery networks as defined in KRS 216.900;~~[and]~~

(i) Services provided by midlevel health-care practitioners as defined in KRS 216.900***; and***

(j) Smoking cessation treatment interventions or programs prescribed by a physician, advanced registered nurse practitioner, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over-the-counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation.

(2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

(12) The Medical Assistance Program shall use the form and guidelines established pursuant to KRS 304.17A-545(5) for assessing the credentials of those applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 313, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A.

HB 252, AN ACT relating to drug importation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. . A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) The Governor and the secretary of the Cabinet for Health and Family Services shall coordinate a request to the Secretary of the United States Department of Health and Human Services to certify to Congress that drug importation from licensed foreign pharmacies, distributors, and wholesalers by licensed pharmacies, distributors, and wholesalers poses no additional risk to the public's health and safety and would result in a significant reduction in the cost of prescription drugs.

(2) The Governor and the secretary of the Cabinet for Health and Family Services shall coordinate a request to the Secretary of the United States Department of Health and Human Services to promulgate administrative regulations permitting licensed pharmacies, distributors, and wholesalers to import drugs from licensed foreign pharmacies, distributors, and wholesalers.

(3) Upon the effective date of federal regulations permitting pharmacies, distributors, and wholesalers to import prescription drugs from licensed foreign pharmacies, distributors, and wholesalers, the secretary of the Cabinet for Health and Family Services shall design a prescription drug program to facilitate the importation of prescription drugs from licensed foreign pharmacies, distributors, and wholesalers by pharmacies, distributors, and wholesalers licensed in Kentucky for resale to Kentucky residents.

(4) The program designed under subsection (3) of this section shall include the following components:

(a) A formulary that lists the drugs that may be safely obtained from licensed foreign pharmacies, distributors, and wholesalers;

1. The list shall be composed of predominantly brand-name drugs that will be used for long-term or maintenance purposes;

2. Only drugs that can be obtained more cost-effectively from outside the United States than from the United States shall be included;

3. The list shall be periodically updated to ensure continued cost savings;

4. Only drugs approved by the United States Food and Drug Administration in dosages approved by that federal agency shall be eligible for inclusion on the list;

(b) Patient safety assurance protections;

1. The cabinet shall implement a monitoring program to evaluate the safety and efficacy of drugs received by pharmacies. This program may be established in coordination with a Kentucky-based college of pharmacy;

2. All drugs received from outside the United States shall be in manufacturer-sealed containers;

3. All wholesalers, distributors, and pharmacies involved in the importation of drugs under the program shall be licensed and regulated by either the United States, including state authorities, or the foreign government, including provincial authorities, or both;

4. All drugs imported shall comply with any federal documentation requirements and with all requirements of the federal Food, Drug, and Cosmetic Act; and

(c) A requirement that prescription drugs imported by pharmacies, distributors, and wholesalers licensed in Kentucky under the program be available for sale to all Kentucky consumers and recipients of all state health insurance programs, including but not limited to the state employee health benefit plan, health department programs, and Medicaid.

(5) The cabinet shall promulgate administrative regulations to establish a formula to determine the estimated acquisition cost for drugs imported under the program created in this section and shall negotiate with pharmacists or pharmacies to ensure that savings are passed on to consumers and state health insurance programs, including but not limited to the state employee health benefit plan, health department programs, and Medicaid. The ingredient price of a drug imported from outside the United States and sold by a pharmacy licensed in Kentucky shall not exceed the lesser of one hundred twenty percent (120%) of the estimated acquisition cost for the drug or the amount reimbursed for the drug under the Medicaid program. Nothing in this subsection shall prohibit the pharmacy from charging a dispensing fee for the drug.

(6) The cabinet shall submit an annual report to the Governor and the Legislative Research Commission regarding the effectiveness and cost saving of this program.

HB 282, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:

216B.335 Limitation upon establishment of nursing home beds.

The Committee Substitute to **HB 282** is as follows:

HB 282, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.335 is amended to read as follows:

The establishment of continuing care retirement community nursing home beds under KRS 216B.015, 216B.020, 216B.330, and 216B.332 shall be limited to the time period commencing upon July 14, 2000, and ending ***December 31, 2012***[~~July 31, 2008~~]. After ***December 21, 2012***[~~July 31, 2008~~], no further continuing care retirement community nursing home beds shall be established under KRS 216B.015, 216B.020, 216B.330, and 216B.332 without affirmative actions of the General Assembly.

The Committee on Economic Development reported **HCR 120** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 120, A CONCURRENT RESOLUTION commemorating the 100th anniversary of the United Parcel Service, Inc. (UPS) and recognizing its contributions to the people of the Commonwealth.

WHEREAS, founded in 1907 as a messenger service, UPS has grown into the world's largest package delivery company; and

WHEREAS, every day, UPS manages the flow of goods, funds, and information in more than 200 countries and territories; and

WHEREAS, on August 28, 2007, UPS will celebrate its 100th anniversary; and

WHEREAS, UPS has served Kentucky since 1934 and, today, employs over 20,000 employees and operates 69 facilities across the Commonwealth; and

WHEREAS, Louisville, Kentucky is the headquarters for UPS Worldport^{sm} , UPS's all-points international air hub, and the UPS Airline, which is the eighth largest in the world; and

WHEREAS, each day, over 84,000 citizens of Kentucky utilize the express delivery and the specialized transportation and logistics services provided by UPS; and

WHEREAS, UPS delivers more than 210,000 packages every day to customers across Kentucky, connecting people, communities, and businesses; and

WHEREAS, the services provided by UPS connect the people of Kentucky to more than 200 countries through its expansive transportation network that truly synchronizes global commerce; and

WHEREAS, UPS has contributed more than $17 million to philanthropic endeavors in the Commonwealth of Kentucky since 1995, thus reflecting the company's emphasis on community service and good citizenship; and

WHEREAS, UPS will continue to both provide a substantial economic impact to the people of Kentucky and focus on cultivating deep partnerships with the communities it serves;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky General Assembly hereby commemorates the 100th anniversary of the United Parcel Service, Inc., celebrating both its growth from a messenger service in 1907 to a global package delivery company in 2007, and its presence in Kentucky since 1934.

Section 2. The Kentucky General Assembly recognizes and celebrates the economic and philanthropic contributions made by the United Parcel Service, Inc. to the people of the Commonwealth and calls upon all Kentuckians to join in congratulating UPS on the occasion of its 100th anniversary.

The Committee on Labor and Industry reported **HB 219** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 219, AN ACT relating to wage discrimination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.423 is amended to read as follows:

(1) ***(a) For purposes of this section "comparable worth" means the value of the work measured by the skill, effort, and responsibility usually required in the performance of the work.***

(b) No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex for [~~comparable~~]work on jobs ***of comparable worth and*** which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, shall not be included within this prohibition. Nothing in KRS 337.420 to 337.433 and 337.990(14) shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and 337.990(14) and when the employer files with the executive director of the Office of Workplace Standards a statement that the employer is covered by the federal Fair Labor Standards Act of 1938, as amended.

(2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and 337.990(14) shall not, in order to comply with it, reduce the wage rates of any employee.

(3) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of KRS 337.420 to 337.433 and 337.990(14).

(4) No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and 337.990(14).

Section 2. This Act takes effect July 1, 2008.

Motions, Petitions, and Communications (Continued)

Representative Damron moved the adoption of the following **HR 143**:

HR 143, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sammy E. Corman.

WHEREAS, Sammy E. Corman was born on May 3, 1938, the son of the late Stan and Mattie Corman; and

WHEREAS, Mr. Corman was a 1957 graduate of Nicholasville High School, where he excelled in football, basketball, and baseball, winning recognition as an All-Central Kentucky Conference player in football. Mr. Corman was offered professional baseball contracts by the Cincinnati Reds and the St. Louis Cardinals, but instead chose to serve his nation as a member of the United States Army; and

WHEREAS, Mr. Corman was a cofounder and partner with Prestige Claims Service, working in independent claims for more than 35 years. Mr. Corman was also an active member of the Bluegrass Claims Association; and

WHEREAS, Mr. Corman served on the Nicholasville City Council for two years, the subsequent Nicholasville City Commission for four years, and as mayor of Nicholasville between 1990 and 2002, during a time of unprecedented growth for the city and Jessamine County. During his tenure in office, Mr. Corman worked tirelessly to promote the city's progress and safety, shifting the city's fire department to a full-time career force and opening both a city-county swimming pool and a wastewater treatment plant. Mr. Corman also worked to improve the city's working relationship with neighboring communities, Jessamine County, and local schools; and

WHEREAS, Mr. Corman was a vigorous advocate for youth sports programs and other athletic endeavors in his community, founding the Jessamine County Youth Football program and encouraging the construction of a youth sports complex in Nicholasville. Mr. Corman was also the only associate member of the Kentucky Chapter of the National Football League Players Association due to his active support for a Nicholasville location for the Kentucky Pro Football Hall of Fame; and

WHEREAS, Mr. Corman was also a strong voice in many civic and community organizations, helping found the Nicholasville Now! program to revitalize downtown Nicholasville, becoming an Exalted Rooster of the Jessamine Junior Chamber of Commerce, and being named to Who's Who of Outstanding Young Men in America; and

WHEREAS, Mr. Corman continued to be an accomplished athlete throughout his life, becoming a charter member of the Lone Oak Country Club and becoming the club's golf champion. Mr. Corman also was an avid softball player for Square D, helping the club win regional and state championships five years in a row; and

WHEREAS, Mr. Corman was a faithful member of Edgewood Baptist Church, where he maintained a devotion to his Creator that helped him carry on through the trials and tribulations of public life; and

WHEREAS, Mr. Corman was the adoring husband of Nancy Swope Corman, with whom he raised two sons, Gregory Allen Corman and Mark E. Corman. The couple also was devoted to their four grandchildren, Seth Corman, Brady Corman, Samantha Corman, and Mark Ruff, Jr.; and

WHEREAS, Mr. Corman departed this life on February 12, 2007, and an entire community joins his family and friends in grieving for his loss;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Sammy E. Corman and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sammy E. Corman.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Nancy Corman, 307 Strawberry Lane, Nicholasville, Kentucky 40356.

There being no objection, **HR 143** was adopted.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 5**, by Representative Adkins:

HB 5, On page 1, line 3, after "*government*" delete "*, the Finance and*", and insert in lieu thereof "*:*" ;

On page 1, delete lines 4 through 11 in their entirety, and insert in lieu thereof:

"*(a) The Finance and Administration Cabinet is encouraged to:*

1. Utilize Leadership in Energy Environmental Design (LEED) to promote design, construction, and operation of high-performance energy-efficient buildings promoting a whole-building approach in five (5) key areas of human and environmental health, sustainable site development, water savings, energy efficiency, material selection, and environmental quality; and

2. Incorporate ENERGY STAR products in state agency procurements, if possible; and

(b) The agency responsible for administering state-owned property shall review the utility usage of the property and shall cooperate with the Finance and Administration Cabinet to determine which properties are good Energy Savings Performance Contract (ESPC) candidates, and the responsible agency is encouraged to implement ESPC contracts where appropriate.";

On page 2, line 4, after "*of*" delete "*ENERGY STAR*" and insert in lieu thereof, "*LEED, ENERGY STAR products, and ESPC contracts*";

On page 2, line 17, after "*Produces*" insert "*for sale*";

On page 2, line 18, after "*Produces*" insert "*for sale*";

On page 2, line 19, after "*Generates*" insert "*for sale*";

On page 2, line 23, after "*equipment,*" insert "*for incorporation into a plant facility in this state*";

On page 2, line 25, before "*manufacturing*" insert "*entire*";

On page 2, line 25, after "*process*" insert "*at that plant facility*";

On page 3, line 7, after "*electricity*" insert "*for sale*";

On page 3, line 12, delete "*rental,*";

On page 3, line 16, after "*if the*", insert "*tangible personal property is incorporated into the facility and*";

On page 3, line 20, delete "*or*";

On page 3, between lines 20 and 21, insert the following:

"*(b) Sales or purchases of operating supplies; or*";

On page 3, line 21, delete "*(b)*", and insert in lieu thereof "*(c)*";

On page 3, line 25, delete "*certificate under which*", and insert in lieu thereof "*under Section 3 of this Act.*";

On page 3, delete lines 26 and 27 in their entirety;

On page 4, delete lines 1 and 2 in their entirety;

On page 5, line 17, delete "*approval*", and insert in lieu thereof "*preapproval*";

On page 5, line 18, after "*equipment*", insert "*that includes a description of the machinery or equipment, documentation of the amount of energy or energy-producing fuels consumed in the twelve (12) month period prior to the application for preapproval, and any other information the department may request*";

On page 5, line 19, delete "*supporting documentation*", and insert in lieu thereof "*information documenting achievement of the energy-efficiency standards required by Section 2 of this Act*";

On page 5, line 19, delete "*sixty*" and insert in lieu thereof "*eighteen*";

On page 5, line 20, delete "*(60) days*" and insert in lieu thereof "*(18) months*";

On page 5, line 20, delete "*tax was paid*", and insert in lieu thereof "*machinery or equipment was placed in service*";

On page 6, line 3, delete "*applicant*", and insert in lieu thereof "*entity applying for the exemption*";

On page 6, line 5, delete "*company*" and insert in lieu thereof "*entity*";

On page 6, line 7, delete "*persons*" and insert in lieu thereof "*entities*";

On page 6, line 8, delete "*person*" and insert in lieu thereof "*entity*";

On page 6, line 11, delete "*approval*" and insert in lieu thereof "*preapproval*";

On page 6, line 14, delete "***persons***" and insert in lieu thereof "***entities***";

On page 6, line 14, after "***filed***", insert "***an application***";

On page 6, line 16, delete "***person***" and insert in lieu thereof "***entity***"; and

On page 6, line 16 after "***claimed***" insert "***and the amount of refund approved by the department***".

Floor Amendment No. 3 to **HB 64**, by Representative Riner:

HB 64, On page 1, on line 5, following "(2)" insert

"***The Golden Rule popularly known throughout Kentucky as "Do unto others as you would have them do unto you" shall be the model for improving attitude and the rule for conduct for all students attending the public schools of Kentucky.***
(3)"; and

On page 1, line 9, insert "***(4)***" and bracket and strikethrough "(3)"; and

On page 3, line 23, following "(b)" insert "***The code shall embrace the Golden Rule as the model for improving attitude and the rule for conduct for all students. It***" and bracket and strikethrough "The code"; and

On page 4, line 27, following "***regarding***" insert "***The Golden Rule and***"; and

On page 5, line 25, after "***the***" insert "***breaking of the Golden Rule through***"; and

On page 11, following line 13, insert

"Section 8. This Act shall be known as The Golden Rule Act of 2007.".

Floor Amendment No. 1 to **HB 335**, by Representative Osborne:

HB 335, On page 3, lines 15 through 17, after "purposes" place brackets around and strike through ", if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs".

Floor Amendment No. 2 Title to **HB 335**, by Representative Osborne:

HB 335, Amend the title to read "AN ACT relating to local property tax.".

Floor Amendment No. 2 to **HB 69**, by Representative Arnold:

HB 69, On page 3, line 1, delete all new language and insert the following in lieu thereof: "***or to resume operations in the case of closed facilities as provided in paragraph (b) of subsection (10) of this section***";

On page 3, line 12, after "Having" insert, "***, or in the case of closed facilities, intending,***";

On page 3, line 14, after "employing" insert, "***, or in the case of closed facilities, intending to employ,***";

On page 3, line 20, after "been" insert "***closed,***" and after "suspended" insert a comma;

On page 4, between lines 16 and 17, insert the following:

"Section 2. KRS 154.26-080 is amended to read as follows:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and the retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including but not limited to written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing or coal mining and processing facility, permanently lay off its employees, and cease operations***, or will not resume operations of a closed facility as permitted by subsection (9) of Section 1 of this Act***.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including but not limited to financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility ***or not resume operations of the facility as permitted by subsection (9) of Section 1 of this Act***; and set out alternatives that are available to the company.

(5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency

declaration based upon the urgency of the request and its impact on the local or regional economy.

(6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the Education Cabinet, and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.

(7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), or subsection (11) of this section.

(8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility ***or not resume operations of the facility as permitted by subsection (9) of Section 1 of this Act*** absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.

(9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility ***or not resume operations of the facility as permitted by subsection (9) of Section 1 of this Act***.

(10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.

(11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons ***or whether it intends or is able to resume operations of the facility in accordance with the requirements of subsection (10)(b) of Section 1 of this Act if inducements are granted***. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(13) After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost ***or the company unable to resume operations as permitted by subsection (9) of Section 1 of this Act***; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company."; and

On page 4, line 17, renumber the section accordingly.

Floor Amendment No. 1 to the Committee Substitute to **HB 240**, by Representative Denham:

HB 240, On page 1, line 22 after the "***.***", by adding the following language:

"***Any ordinance enacted shall be in accordance with the procedures for the collection of delinquent ad valorem taxes as provided by KRS 134.810 and the provisions regarding vehicle registration renewal and transfer of vehicle ownership contained in KRS 186.021.***";

On page 1, lines 23 through 25, by deleting said lines in their entirety;

On page 2, lines 1 through 7, by deleting said lines in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 94**, by Representative Pullin:

HB 94, On page 2, delete lines 21 and 22 in their entirety and insert in lieu thereof:

"***2. Post a surety bond or obtain other financial assurance in the amount of five hundred thousand dollars ($500,000);***"; and

On page 2, between lines 22 and 23, insert the following:

"***3. Provide a certificate issued by an insurance company licensed to do business in Kentucky, certifying that the contractor has a public liability insurance policy in an amount deemed sufficient by the cabinet for any personal or property damages that might occur to third parties arising from the performance of decontamination services for inhabitable properties by the contractor or his or her employees or agents;***"; and

On page 2, line 23, delete "***3.***" and insert "***4.***" in lieu thereof; and

On page 2, line 25, delete "*4.*" and insert "*5.*" in lieu thereof; and

On page 3, delete lines 11 and 12 in their entirety and insert in lieu thereof:

"*drug lab, the agency shall, the day that it becomes aware of the contamination, report it by fax or e-mail to the local health department.*"; and

On page 3, line 13, delete "*written report of methamphetamine contamination of an*" and insert in lieu thereof "*fax or e-mail referred to in*"; and

On page 3, line 18, after "*212*" insert:

"*to post a notice of methamphetamine contamination on each exterior door of the inhabitable property, except in the case of a multi-family housing unit. In that case, the local health department shall post a notice of methamphetamine contamination on each entrance door to that unit. The notice shall warn the public of the health hazards posed by the methamphetamine contamination of the inhabitable property*"; and

On page 8, line 19, delete "*crime*" and insert "*felony*" in lieu thereof.

Floor Amendment No. 1 to **HB 75**, by Representative Thompson:

HB 75, On page 1, line 11 , delete "*activities*" and insert in lieu thereof "*events*".

Floor Amendment No. 1 to the Committee Substitute to **HB 214**, by Representative Riggs:

HB 214, On page 2, line 26, following "*($5,000,000)*" to insert "*. The Law Enforcement Foundation Program fund shall be a trust and agency account and no money in the fund, regardless of the source, shall lapse at the end of any fiscal year*"; and

On page 14, line 25, following "*($5,000,000)*" to insert "*. The Firefighters Foundation Program fund shall be a trust and agency account and no money in the fund, regardless of the source, shall lapse at the end of any fiscal year*"; and

On page 15, line 11, following "*($5,000,000)*" to insert "*. The Law Enforcement Foundation Program fund shall be a trust and agency account and no money in the fund, regardless of the source, shall lapse at the end of any fiscal year*"; and

On page 16, line 7, following "*($5,000,000)*" to insert "*. The Firefighters Foundation Program fund shall be a trust and agency account and no money in the fund, regardless of the source, shall lapse at the end of any fiscal year*".

Floor Amendment No. 1 to **HB 123**, by Representative Pullin:

HB 123, On page 1, line 4, after the period by inserting "*The commission may initiate programs in multiple communities wherever the electric utility is willing to participate.*"

On page 1, line 6, after the word "*homes*", by inserting "*on a voluntary basis*";

On page 1, line 6, after the word "*but*", by striking "*a percentage*";

On page 1, line 6, after the word "*shall*", by inserting "*also*";

On page 1, line 9, after the period, by inserting "*Devices which plug into any electrical outlet and provide data on current household electrical usage shall be allowed.*";

On page 1, line 15 and 16, after "*(d)*", by striking all text and substituting, "*Be capable of being read by utility employees either remotely or from the exterior of the home.*";

On page 1, line 17, after the word "*collect*", by inserting "*and report annually to the commission*";

On page 1, line 18, after the word "*of*", by deleting "*not less than*";

On page 1, lines 19 and 20, after "*and construction*", by deleting "*to the new construction study homes*";

On page 1, line 21, after the period, by inserting "*Personal and identifying data on homeowners shall be kept confidential by the commission and by the utility.*";

On page 1, line 22, after the word "*prior*", by deleting "*years*" and substituting "*periods*";

On page 1, line 24, after the word "*shall*", by inserting "*compile and*"; and

On page 2, line 2, after the word "*commission*", by deleting "*is*" and substituting "*and utilities are*";

On page 2, after line 3 by inserting:

"Section 2. The purpose of this Act is to demonstrate that such meters are one of many tools which, when placed in the hands of consumers, can help them to reduce wasteful energy use and save money on their energy bills."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representatives Sims, McKee, Graham, Simpson, Ballard, Westrom, Pullin, A. Smith, L. Belcher, Nelson, Yonts, Arnold, Palumbo, Gooch, Hoffman, Combs, Bell, Firkins, Miller, Marzian, Webb, Stein, Jenkins, Tilley, Riggs, Crenshaw, Watkins, Wayne, Rand, Henderson, and Thompson

HB 2, Representatives Draud, Combs, Bell, Rollins, Firkins, Miller, Marzian, Webb, Stein, Jenkins, Tilley, Riggs, Crenshaw, Watkins, Wayne, Rand, Henderson, Burch, Westrom, Hoffman, J. Lee, Owens, Moberly, Pasley, Denham, Adams, Greer, Gooch, Meeks, Glenn, Palumbo, Arnold, Yonts, Edmonds, McKee, Ballard, Pullin, L. Belcher, Nelson, and Meeks

HB 3, Representatives Meeks, Moberly, Pasley, Greer, Rasche, Arnold, Yonts, Edmonds, Simpson, Graham, McKee, Ballard, A. Smith, L. Belcher, Nelson, Hoffman, Combs, Rollins, Bell, Firkins, Miller, Marzian, Webb, Stein, Jenkins, Tilley, Crenshaw, Watkins, Wayne, Rand, Henderson, J. Lee, Burch, Westrom, and Richards

HB 4, Representatives Sims, Owens, Moberly, Pasley, Meeks, Greer, Keene, Palumbo, Arnold, Yonts, Edmonds, Simpson, McKee, Ballard, Westrom, L. Belcher, Nelson, Hoffman, Combs, Bell, Firkins, Miller, Webb, Stein, Jenkins, Tilley, Riggs, Crenshaw, Watkins, Wayne, Rand, Henderson, J. Lee, Burch, and Richards

HB 5, Representatives Couch, Owens, Watkins, Meeks, Moberly, Pasley, Denham, Greer, Spencer, Glenn, Keene, Simpson, Ballard, Richards, Hoffman, Yonts, Westrom, A. Smith, Gray, L. Belcher, Nelson, Palumbo, Arnold, Edmonds, Collins, Graham, McKee, Thompson, Henderson, J. Lee, and Burch

HB 6, Representatives Westrom, Pullin, A. Smith, Gray, L. Belcher, Nelson, Rasche, Palumbo, Arnold, Yonts, Edmonds, Collins, Stacy, Graham, McKee, Thompson, Henderson, Rand, Wayne, Richards, and Hoffman

HB 8, Representatives Pasley, Nesler, Keene, Glenn, Arnold, Edmonds, Collins, Stacy, McKee, Thompson, Henderson, Rand, Wayne, Westrom, Pullin, A. Smith, L. Belcher, Nelson, Palumbo, Meeks, Richards, and Hoffman

HB 11, Representative Crimm

HB 53, Representative Thompson

HB 62, Representative Thompson

HB 75, Representative Santoro

HB 82, Representative Westrom

HB 114, Representative Moore

HB 126, Representative Koenig

HB 187, Representative Embry

HB 189, Representative Koenig

HB 210, Representative Stewart

HB 219, Representative Sims

HB 222, Representatives Stewart and Embry

HB 243, Representative Westrom

HB 244, Representative Edmonds

HB 247, Representative Jenkins

HB 273, Representative Westrom

HB 278, Representative Palumbo

HB 305, Representative Riner

HB 309, Representative Santoro

HB 310, Representatives Ford and Santoro

HB 318, Representatives Burch, Gray, Meeks, Hoffman, Owens, and Stein

HB 332, Representative Palumbo

HB 337, Representative Westrom

HB 344, Representative Palumbo

HB 345, Representative Jenkins

HB 355, Representative Koenig

HB 362, Representatives Cherry, Greer, and Nesler

HB 385, Representative Palumbo

HB 386, Representative Westrom

HB 402, Representative Santoro

HB 403, Representatives Jenkins, Palumbo, and Marzian

HB 406, Representatives B. Smith and Jenkins

HB 413, Representatives Koenig and Draud

HB 431, Representative Draud

HB 437, Representative Henderson

HB 445, Representative Draud

HB 460, Representative Westrom

HB 466, Representatives DeCesare, Keene, Farmer, L. Belcher, Crimm, Brinkman, and Cherry

HB 480, Representatives Farmer and Westrom

HB 490, Representatives Moore, Clark, Hoffman, Henderson, and Farmer

HB 500, Representatives B. Smith, Spencer, and Collins

HB 503, Representative Wayne

HB 506, Representatives Crimm and McKee

HB 507, Representative Crimm

HJR 13, Representative Palumbo

HR 146, Representative Marzian

The following member filed a request to have her name withdrawn as co-sponsor of Bill:

HB 403, Representative Stein

Announcements

Committee on Health and Welfare, upon recess, Room 304

Committee on Economic Development, upon recess, back of Chamber

Committee on Labor and Industry, upon recess, Room 305

Committee on Transportation, upon recess, Friday, February 16, 2007, Majority Floor Leader's Office

Committee on Judiciary, 15 minutes upon adjournment

Adjournment

Representative Adkins moved to adjourn until the hour of 9:00 a.m. on Friday, February 16, 2007.

The motion that the House adjourn until 9:00 a.m., Friday, February 16, 2007, was adopted by voice vote.

FRIDAY, FEBRUARY 16, 2007

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representatives Bratcher and Marzian.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 15, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills were filed by the following:

Representative Mobley moved that he be recorded as voting "Yea" on **HB 136, 62,** and **53**. Agreed.

Representative Hoover moved that he be recorded as voting "Yea" on **HB 62** and **53**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **HB 144**. Agreed.

Senate Message

Announcing passage of **SB 10, 13, 29, 30, 68, 159, 105,** and **152**. (9:08 AM)

Introduction of Bills and Resolutions

HB 520, by Representatives B. Smith, Fischer, Wilkey, Collins, Graham, Henderson, Moore, Pasley, Crimm, Stein, Dossett, Turner, Rudy, Tilley, L. Belcher, S. Lee, Owens, Koenig, Harmon, Combs, Webb, Gray, Napier, Brinkman, Montell, Ballard, Dedman, Comer, Stewart, Arnold, Floyd, Spencer, Upchurch, Westrom, Adams, Rand, and Santoro: AN ACT relating to military family assistance.

HB 521, by Representatives B. Smith, Adams, and Couch: AN ACT relating to underground petroleum storage tanks.

HB 522, by Representative Adams: AN ACT relating to military death benefits.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Seniors, Military Affairs and Public Safety: **HB 342**

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 450, HCR 148**

Appropriations and Revenue: **HB 500**

Banking and Insurance: **HB 513**

Education: **HB 436, 461, 471, 508**

Health and Welfare: **HB 445, 463, 473, HJR 144**

Judiciary: **HB 458, 469, SB 3, 4**

Labor and Industry: **HB 453, 455, 456, 457, 491, 492, 493, 494, 495, 516, 517**

Licensing and Occupations: **HB 490, 497**

Local Government: **HB 472, 514, SB 60**

Natural Resources and Environment: **HB 442**

Seniors, Military Affairs and Public Safety: **HB 470, 518, 519**

State Government: **HB 464, 511, SB 55**

Transportation: **HB 509, 510, HJR 142**

House Floor: **HR 146, 147, 149**

Report of Committees

The Committee on Judiciary reported **HB 67, HB 140,** with Committee Substitute attached thereto, **HB 190, HB 198,** and **HB 403,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 67, AN ACT relating to restoration of civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.045 is amended to read as follows:

(1) The Department of Corrections shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement a simplified process for the restoration of civil rights to eligible felony offenders. As part of this simplified process, the Department of Corrections shall:

(a) Inform ***all*** eligible offenders***, including state prisoners in local jails,*** about the process for restoration of civil rights and ***initiate the process unless otherwise instructed by the eligible offender***[~~provide a standard form which individuals may sign upon their release to formally request that the Department of Corrections initiate the process~~];

(b) Generate a list on a monthly basis of eligible offenders who have been released by the Department of Corrections or discharged by the Parole Board and ***for whom restoration of civil rights has been initiated***[~~who have requested that their civil rights be restored~~];

(c) Conduct an investigation and compile the necessary information to ensure that all restitution has been paid and that there are no outstanding warrants, charges, or indictments;

(d) Provide notice to the Commonwealth's attorney in the county of commitment and to the Commonwealth's attorney in the offender's county of residence, setting out in the notification the criminal case number and charges for which the offender was convicted; and

(e) Forward information on a monthly basis of eligible felony offenders ***for whom***[~~who have requested~~] restoration of rights ***has been initiated*** to the Office of the Governor for consideration of a partial pardon ***and to the House and Senate Judiciary Committees***.

(2) As used in this section, "eligible felony offender" means a person convicted of one (1) or more felonies who:

(a) Has reached the maximum expiration of his or her sentence or has received final discharge from the Parole Board;

(b) Does not have any pending warrants, charges, or indictments; and

(c) Had paid full restitution as ordered by the court or the Parole Board.

(3) As used in this section, "civil rights" means the ability to vote, serve on a jury, obtain a professional or vocational license, and hold an elective office. It does not include the right to bear arms.

(4) Any eligible offender not provided for under subsection (2) of this section may submit an application directly to the Department of Corrections to initiate the process outlined in subsection (1) of this section.

(5) The Administrative Office of the Courts and the Kentucky State Police shall provide the Department of Corrections with all records necessary to conduct the investigation required by this section.

(6) The Secretary of State shall, on a monthly basis, provide to the House and Senate Judiciary Committees the number of restorations filed.

(7) The Secretary of State and the Department of Corrections shall, by July 1st of each year, provide the House and Senate Judiciary Committees a written summary of the prior year's restoration of civil rights activity and recommendations for improving, expediting, and simplifying the administrative process.

HB 140, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) No peace officer, or officer, employee, contractor, vendor, or volunteer of the Department of Corrections, the Department of Juvenile Justice, a detention facility as defined in KRS 520.010, a sheriff's office, or a police department shall subject a prisoner, inmate, or other confined person, or a probationer or parolee, whether inside or outside of a facility, to sexual intercourse, deviate sexual intercourse, or sexual contact.

(2) In a prosecution for violation of subsection (1) of this section:

(a) Lack of consent is not an element of the offense; and

(b) The defendant may prove in exculpation that, at the time the defendant engaged in the conduct constituting the offense, the defendant and the victim were married to each other.

(3) Any person who violates subsection (1) of this section shall be guilty of a Class D felony.

The Committee Substitute to **HB 140** is as follows:

HB 140, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) No peace officer, or officer, employee, contractor, vendor, or volunteer of the Department of Corrections, the Department of Juvenile Justice, a detention facility as defined in KRS 520.010, a sheriff's office, or a police department shall knowingly subject a person he or she knows to be a prisoner, inmate, or other confined person, or a probationer or parolee, whether inside or outside of a facility, to sexual contact for the purpose of sexual gratification of either person, sexual intercourse, or deviate sexual intercourse.

(2) In a prosecution for violation of subsection (1) of this section:

(a) Lack of consent is not an element of the offense; and

(b) The defendant may prove in exculpation that, at the time the defendant engaged in the conduct constituting the offense, the defendant and the victim were married to each other.

(3) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor.

Section 2. KRS 510.120 is amended to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He or she subjects another person to sexual contact who is incapable of consent because he or she is mentally retarded;

(b) He or she subjects another person who is less than fourteen (14) years old to sexual contact;

(c)[~~Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he or she engaged in the conduct constituting the offense, he or she and the offender were married to each other;~~

~~(d)~~] Being twenty-one (21) years old or more, he or she subjects another person to sexual contact who is less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; or

(d)[~~(e)~~]Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she subjects a minor who is under sixteen (16) years old, with whom he or she comes into contact as a result of that position, to sexual contact.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

HB 190, AN ACT relating to the Office of the Attorney General.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.010 is amended to read as follows:

(1) The Attorney General is the head of the Department of Law.

(2) The Department of Law shall include the following major organizational units:

(a) *Office of Criminal Appeals*[~~Criminal Appellate Division~~];

(b) *Office of* Consumer Protection[~~ Division~~];

(c) ***Department of the Kentucky Bureau of Investigation***[~~Special Investigations Division~~];
(d) Special Prosecutions Division;
(e) Prosecutors Advisory Council Services Division;
(f) Medicaid Fraud and Abuse Control Division;
(g) ***Office of*** Civil and Environmental Law[~~ Division~~];
(h) ***Office of Victim's Advocacy***[~~Victims Advocacy Division~~];
(i) Child Support Enforcement Commission;
(j) Administrative Hearings Division;
(k) Office of Rate Intervention; ***and***
(l) Administrative Services Division[~~; and~~
~~(m) Financial Integrity Enforcement Division~~].

(3) The Department of the Kentucky Bureau of Investigation shall be headed by a commissioner, who shall be appointed by and serve at the pleasure of the Attorney General. The other offices specified in subsection (2) of this section shall be headed by executive directors, who shall be appointed by and serve at the pleasure of the Attorney General.

Section 2. KRS 15.111 is amended to read as follows:

(1) The Division of Administrative Hearings is created in the Office of Attorney General.

(2) This division shall have the following responsibilities:

(a) Employing and maintaining a pool of hearing officers for assignment to the individual agencies at their request, for the conduct of administrative hearings. The Attorney General's office may also employ other staff as necessary to carry out functions and responsibilities assigned by KRS Chapter 13B;

(b) Reviewing and approving or disapproving requests from agencies for waivers from provisions of KRS Chapter 13B;

(c) Providing training in administrative hearing procedures for hearing officers as required in KRS 13B.030, either by developing and offering the training, or by contracting with appropriate organizations for the provision of training, or by approving training developed and submitted by the agencies;

(d) Consulting with the Personnel Cabinet and employing agencies in the establishment of relevant and appropriate qualifications for classes of hearing officers;

(e) Establishing, in cooperation with the ***Office***[~~Division~~] of Consumer Protection, a clearinghouse for complaints concerning the administrative hearing process in Kentucky. Each complaint received shall be referred to the agency that is the subject of the complaint, and the action of the agency to resolve the complaint shall be noted and reported to the division;

(f) Reporting to the Legislative Research Commission by July 1 of each odd-numbered year, the status of the administrative hearing process in Kentucky. The report shall include a compilation of statistical data and other information necessary to assess the effectiveness and efficiency of hearing procedures and recommendations for making improvements to the system. Agencies shall provide the information requested by the Division of Administrative Hearings necessary to complete the report.

Section 3. KRS 15.113 is amended to read as follows:

(1) ***As part of its purpose,*** the ***Kentucky Bureau of Investigation***[~~Financial Integrity Enforcement Division is created in the Department of Law. The division~~] shall:

(a) Investigate illegal redemption of food stamp benefits in cooperation with the United States Department of Agriculture and the Cabinet for Health and Family Services;

(b) Verify eligibility of food stamp program applicants as to past criminal history;

(c) Investigate the illegal distribution of counterfeit merchandise; and

(d) Investigate the use of personal identification and financial information by persons for the purpose of theft, or fraud, or both theft and fraud, and other illegal or fraudulent activity which may involve electronic commerce.

(2) The Office of the Attorney General shall coordinate with the Office of Financial Institutions, the United States Secret Service, the Federal Trade Commission, the Kentucky Bankers' Association, and any other agency or organization to prepare and disseminate information to prevent identity theft.

Section 4. KRS 217.896 is amended to read as follows:

The ***Office***[~~Division~~] of Consumer Protection of the Office of the Attorney General shall develop and distribute to licensed pharmacies without charge a pamphlet for citizens of the Commonwealth which explains the provisions of KRS 217.815 to 217.826 and 217.895. Pharmacists shall display such distributed pamphlets in a prominent place and make them available without charge. Pharmacies shall maintain a sufficient stock of the distributed pamphlets to assure that the supply will not become exhausted for any lengthy time.

Section 5. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.

(6) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

(a) A "qualified organization" means one which is:

1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the ***Office***[~~Division~~] of Consumer Protection in the Office of the Attorney General; or

2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or

3. Exempt as a publicly owned or nonprofit, privately endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

(b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

(7) A religious publication (as identified in this subsection), or its subscribers, that limit their operations to those activities permitted by this subsection, and:

(a) Is a nonprofit religious organization;

(b) Is limited to subscribers who are members of the same denomination or religion;

(c) Acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need;

(d) Pays for the subscribers' financial or medical needs by payments directly from one (1) subscriber to another;

(e) Suggests amounts to give that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication; and

(f) Provides the following verbatim written disclaimer as a separate cover sheet for all documents distributed by or on behalf of the exempt entity, including all applications, guidelines, promotional or informational materials, and all periodic publications:

"This publication is not issued by an insurance company nor is it offered through an insurance company. This publication does not guarantee or promise that your medical bills will be published or assigned to others for payment.

Whether anyone chooses to pay your medical bills will be totally voluntary. This publication should never be considered as a substitute for an insurance policy.

Whether you receive any payments for medical expenses, and whether or not this publication continues to operate, you will always remain liable for any unpaid bills."

(8) A public or private ambulance service licensed and regulated by the Cabinet for Health and Family Services to the extent that it solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted ambulance services to subscription members and designated members of their households.

Section 6. KRS 367.120 is amended to read as follows:

(1) The General Assembly finds that the public health, welfare and interest require a strong and effective consumer protection program to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services; toward this end, a Consumers' Advisory Council and ***an Office***[~~a Division~~] of Consumer Protection of the Department of Law are hereby created for the purpose of aiding in the development of preventive and remedial consumer protection programs and enforcing consumer protection statutes.

(2) KRS 367.110 to 367.300 may be cited as the "Consumer Protection Act."

Section 7. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999 and 367.990, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A live or recorded communication sent by a telephone or message sent by a facsimile machine to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;
2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;
3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or
4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A live or recorded communication sent by telephone, facsimile machine, mobile telephone, or telephone paging device in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;
2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or
3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean the following:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made to the debtor or a party to the contract in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(d) A telephone call made by the following:

1. A merchant or telemarketer located in Kentucky to a location outside of the Commonwealth of Kentucky;
2. A telephone call made by one (1) merchant to another;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "***Office***[~~Division~~]" means the ***Office of*** Consumer Protection[~~ Division~~] of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator;

(11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes but is not limited to any such person that is an owner, operator, officer, director, or partner to the management activities of a business;

(12) "Publicly traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer;

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation; and

(14) "Zero call" list means a list containing the telephone numbers of the individuals that indicate their preference not to receive telephone solicitations.

Section 8. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) (a) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the zero call list maintained by the Office of the Attorney General, ***Office***[~~Division~~] of Consumer Protection. Any holder of a residential telephone number may notify the ***office***[~~division~~] and be placed on a zero call list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the ***office***[~~division~~]. The telephone numbers of persons requesting to be on the zero call list shall remain on the list until the person rescinds his or her name from the list.

(b) The zero call list shall be updated, published, and distributed on a quarterly basis in electronic and hard copy and may be made available in other formats at the discretion of the ***office***[~~division~~]. After the publication of the list each quarter each telemarketing company, telemarketer, and merchant shall be deemed to be on notice not to solicit any person whose telephone number appears on the list. The list shall be made available to requesters either on a statewide or county by county basis;

(16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;

(17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express

written consent of the consumer;

(18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or

(19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

Section 9. KRS 367.46971 is amended to read as follows:

(1) At least ten (10) days prior to doing business in this state, a telemarketing company shall file with the ***office***~~[division]~~ the information described below and pay a filing fee of three hundred dollars ($300). A telemarketing company shall be deemed to do business in this state if the telemarketing company solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state. The information required by this section shall be submitted on a form provided by the Attorney General and shall be verified by a declaration signed by each principal of the telemarketing company, under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to KRS 367.46951 to 367.46999 shall be clearly identified and appended to the filing.

(2) Registration of a telemarketing company shall be valid for one (1) year from the effective date thereof and may be renewed annually by making the filing required by this section and paying a filing fee of fifty dollars ($50).

(3) If, prior to expiration of a telemarketing company's annual registration, there is a material change in the information required by KRS 367.46951 to 367.46999, the telemarketing company shall, within ten (10) days, file an addendum updating the information with the ***office***~~[division]~~. However, changes in salespersons soliciting on behalf of a telemarketing company shall be updated by filing addenda, if necessary, in quarterly intervals computed from the effective date of registration. The addendum shall include the required information for all salespersons currently soliciting or having solicited on behalf of the telemarketing company at any time during the period between the filing of the registration, or the last addendum, and the current addendum, and shall include information on salespersons no longer soliciting for the telemarketing company as of the date of the filing of the current addendum.

(4) Upon receiving the filing and the filing fee pursuant to this section, the ***office***~~[division]~~ shall send the telemarketing company a written confirmation of receipt of the filing. If the telemarketing company has more than one (1) business location, the written confirmation shall be sent to the telemarketing company's principal business location as identified in the telemarketing company's filing in sufficient numbers so that the telemarketing company can meet the requirements of this subsection. Within ten (10) days of receipt of the confirmation, the telemarketing company shall post in a conspicuous place at each of the telemarketing company's business locations within this state a copy of the entire registration statement which has been filed with the ***office***~~[division]~~. Until confirmation of receipt of filing is received and posted, the telemarketing company shall post in a conspicuous place at each of the telemarketing company's business locations within this state a copy of the first page of the registration form sent to the ***office***~~[department]~~. The telemarketing company shall also post in close proximity to either the confirmation of receipt of filing or the first page of the submitted registration form the name of the individual in charge of each location from which the telemarketing company does business in this state.

Section 10. KRS 367.46981 is amended to read as follows:

(1) Every telemarketing company shall maintain a bond issued by a surety company admitted to do business in this state. The bond shall be in the amount of fifty thousand dollars ($50,000) in favor of the Attorney General for the benefit of any person suffering injury or loss by reason of any violation of KRS 367.46951 to 367.46999 to be paid under the terms of any order of a court of competent jurisdiction obtained by the Attorney General, as a result of any violation of KRS 367.46951 to 367.46999. A copy of the bond shall be filed with the ***office***~~[division]~~.

(2) At least ten (10) days prior to the inception of any promotion offering a premium with an actual market value or advertised value of five hundred dollars ($500) or more, the telemarketing company shall notify the Attorney General in writing of the details of the promotion, describing the premium and its current market value, the value at which it is advertised or held out to the customer, the date the premium shall be awarded, and the conditions under which the award shall be made. The telemarketing company shall maintain an additional bond for the greater of the current total market value or the advertised value of the premiums held out or advertised to be available to a purchaser or recipient. A copy of the bond shall be filed with the ***office***~~[division]~~. The bond, or a portion of it necessary to cover the cost of the award, shall be forfeited if the premium is not awarded to a bona fide customer within thirty (30) days of the date disclosed as the time of award or the time otherwise required by law. The proceeds of the bond shall be paid to any person suffering injury or loss by reason of any violation of KRS 367.46951 to 367.46999 or shall be paid pursuant to the terms of any order of a court of competent jurisdiction obtained by the Attorney General, Commonwealth's attorney, or county attorney as a result of any violation of KRS 367.46951 to 367.46999. The bond shall be maintained until the telemarketing company files with the Attorney General proof that the premium was awarded.

Section 11. KRS 367.46994 is amended to read as follows:

(1) Any person may apply to the Office of the Attorney General, ***Office***~~[Division]~~ of Consumer Protection, to have his or her residential telephone number listed on the zero call list. The Office of the Attorney General shall provide automated telephone dial-in registration and shall collect only the home phone number from the applicant deemed to be required to administer the zero call list. The Office of the Attorney General shall promulgate administrative regulations to:

(a) Provide for automatic telephone number referral from the incumbent local exchange carrier or the competitive local exchange carrier to the Office of the Attorney General for the purpose of updating the zero call list to reflect an applicant's change of address or an applicant's termination of telephone service; and

(b) Develop, modify, or administer the zero call list in such a way as to permit interface with any national registry established by the Federal Trade Commission or the Federal Communications Commission for the purpose of including in Kentucky's zero call list that part of the national database that relates to the Commonwealth or release to the national registry applicants on the zero call list that indicate a preference to be listed on a national registry.

(2) The Attorney General shall place the residential telephone number provided by the applicant on the list. The Attorney General may update the information on the list as provided in subsection (1) of this section, but shall not remove the information unless requested to do so in writing by the applicant, or upon receiving notice that the given telephone number is no longer held in the name of the applicant.

(3) Persons whose telephone numbers appear on the zero call list shall not receive telephone solicitations except in accordance with the provisions of KRS 367.46951 to 367.46999.

(4) Any person that applies to the Office of the Attorney General to be placed on the zero call list shall be informed about how to add his or her name or telephone number to company-specific and industry-wide no solicitation call lists, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS).

(5) Information contained in a database established for the purpose of administering the zero call list shall be used only for the purpose of implementing the zero call program in conformance with KRS 367.46951 to 367.46999.

(6) The zero call list shall be available at no cost to any merchant or telemarketing company that is required to consult the list. In addition to the formats described in KRS 367.46955(15), the list shall be made available in a format for electronic download from the Internet Web page of the Office of the Attorney General. The Attorney General shall make the electronic list available in a format that is searchable by area code and by local exchange. The electronic format shall be arranged with the last four digits of the telephone numbers in ascending order. The electronic list shall also be searchable by individual number and shall be downloadable in at least five (5) of the most common commercially available data management program formats. Hard copies of the zero call list shall be arranged by area code and local exchange with the last four digits in ascending order. The Office of the Attorney General shall develop procedures to assure that:

(a) The merchant or telemarketing company requesting the list shall maintain the confidentiality of the information on the list; and

(b) The merchant or telemarketing company shall use the list only for the purpose of preventing telephone solicitation calls to persons whose telephone numbers appear on the list.

(7) The Kentucky Public Service Commission shall produce a consumer education pamphlet that:

(a) Describes the changes made in the year 2002 to Kentucky's telemarketing laws including the creation of the zero call list;

(b) Describes the consumer's rights and responsibilities regarding the receipt of telephone solicitation;

(c) Explains how consumers can apply to be placed on the zero call list and on any federal do not call registry established by the Federal Communications Commission or the Federal Trade Commission;

(d) Explains how to apply to be placed on company-specific and industrywide no solicitation calls list, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS); and

(e) Describes how a consumer can file a complaint if the consumer receives calls after being placed on the zero call list.

(8) At least once a year, the Public Service Commission shall require that the pamphlet be included in the billing inserts of the telephone companies under the Public Service Commission's jurisdiction.

Section 12. KRS 367.801 is amended to read as follows:

As used in KRS 367.801 to 367.819 and KRS 367.990, unless the context requires otherwise:

(1) "***Office***~~[Division]~~" means ***the Office***~~[Division]~~ of Consumer Protection of the Office of the Attorney General.

(2) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, or any other legal entity.

(3) "Offeror" means a person who is engaged in the business of selling business opportunities including any subsidiary business which affiliates with the offeror for goods or services or locations.

(4) "Consumer/investor" means a person who has purchased or is solicited for the purchase of a business opportunity.

(5) "Business opportunity" means the sale or lease, or offer to sell or lease, of any products, equipment, supplies, or services for the purpose of enabling the consumer investor to start a business when:

(a) The offeror obtains an initial required consideration of not less than five hundred dollars ($500) from the purchase or lease of the business opportunity or inventory associated therewith; and

(b) The offeror has represented, directly or indirectly, that the consumer/investor will earn, can earn, or is likely to earn a gross or net profit in excess of the initial required investment paid by the consumer/investor for the business opportunity; or

(c) 1. The offeror has represented that he has knowledge of the relevant market and that the market demand will enable the consumer/investor to earn a profit from the business opportunity; or

2. The offeror has represented that locations will be provided or assistance will be given directly or indirectly to the consumer/investor in finding locations for the use or operation of the business opportunity including, but not limited to, supplying the consumer/investor with names of locator companies, contracting with the consumer/investor to provide assistance with or supply names of or collect a fee on behalf of or for a locator company; or

3. The offeror has represented that there is a guaranteed market or that the offeror will buy back or is likely to buy back any product made, manufactured, produced, fabricated, grown, or bred by the consumer/investor using, in whole or in part, the products, supplies, equipment, or services which were initially sold or offered for sale to the consumer/investor by the offeror.

Section 13. KRS 367.805 is amended to read as follows:

(1) It is unlawful for any person to engage in the sale of business opportunities unless prior to the offering the offeror has registered with the ***office***~~[division]~~ and has furnished a bond pursuant to KRS 367.815(2) and provided all of the following:

(a) All trade names, assumed names, and all trademarks by which the offeror or the prospective consumer/investor of the business opportunity will be doing business.

(b) The names, home addresses, and home telephone numbers of the persons and company offering the business opportunity, and the company's directors and chief executive officers, and the names, home addresses, and home telephone numbers of all representatives selling business opportunities in Kentucky.

(c) A statement as to the length of time the person and company offering the business opportunity has conducted a business of the type being offered both within and without Kentucky.

(d) A statement as to whether the person or company offering the business opportunity or any of its directors or chief executive officers or sales representatives operating in Kentucky is currently involved in litigation or has been held liable in a civil action by final judgment for having engaged in unfair, false, misleading, or deceptive practices or is currently charged with or has been convicted of or pleaded nolo contendere to a felony involving fraud, embezzlement, fraudulent conversion, or misappropriation of property during the most recent seven (7) year period, or has entered into any agreed settlements or is currently in any bankruptcy proceeding or has been declared bankrupt in any judicial proceeding during the most recent seven (7) year period.

(e) A statement as to whether the person or the company offering the business opportunity or its officers, directors, or agents making the offering of the business opportunity has been a party to any legal cause of action brought by a consumer/investor of the business opportunity within the last seven (7) year period and, if so, the name and address of such individual who has brought the legal action.

(f) A statement disclosing the names, addresses, and telephone numbers of all persons who have been sold a business opportunity by the offeror within the last two (2) year period.

(g) A statement listing the names and addresses of any consumer/investor who has requested within the preceding three (3) years that the offeror return his money.

(h) A current audited financial statement of the offeror.

(i) A specimen of each contract proposed for use in connection with the business opportunity.

(j) A full and detailed description of the actual services that the offeror of the business opportunity undertakes to perform for the consumer/investor.

(k) If training is promised by the offeror, a complete description of the training, including length of the training and costs.

(2) The offeror shall immediately notify the ***office***~~[division]~~ of any material change in information contained in the application for registration and shall make appropriate amendment of the disclosure statement.

(3) The ***office***~~[division]~~ shall collect, from any offeror required to comply with this section, an initial fee of one hundred fifty dollars ($150), and an annual renewal fee of fifty dollars ($50), and an update fee of twenty-five dollars ($25) for the administration and enforcement of KRS 367.801 to 367.819. Funds so collected shall be credited to a trust or agency account for the administrative purpose of the Attorney General's Office~~[, Division]~~ of Consumer Protection.

(4) The Attorney General may promulgate administrative regulations as needed to provide for: a hearing, to be conducted in accordance with KRS Chapter 13B, for any business opportunity which the Attorney General initially determines should not be registered or should have registration revoked or suspended; for the establishment of specific standards for the form and content of the disclosure document; and for registration procedures including fee schedules.

Section 14. KRS 367.807 is amended to read as follows:

(1) An offeror is exempt from the provisions of KRS 367.801 to 367.819 and KRS 367.990 when the offeror:

(a) Meets the definition of a franchise as defined in the Federal Trade Commission's Regulation on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, as set forth in 16 C.F.R. 436 et seq., and has complied with these and filed written notice so stating with the ***office***[~~division~~]; or

(b) Offers a security pursuant to KRS 292.313;

(c) Offers an ongoing business for sale; or

(d) Offers a not-for-profit sale of sales demonstration equipment, materials, or samples for use in making sales and not for resale for a total price of $500 or less.

(2) The Attorney General may promulgate administrative regulations as needed to provide for additional exemptions. Is offering to sell or selling a package franchise as described in KRS 367.801(7).

Section 15. KRS 367.809 is amended to read as follows:

(1) The ***office***[~~division~~], after ascertaining that the applicant has complied with KRS 367.805, shall issue a registration number.

(2) It shall be unlawful for the registrant to fail to include the registration number in any advertising.

Section 16. KRS 367.811 is amended to read as follows:

It shall be unlawful for any offeror to make any oral or written representation, actual or hypothetical, regarding the business opportunity's potential sales, income, gross or net profit unless such sales, income, or profits are examples based upon the actual earnings made by existing consumer/investors of the business opportunity. Upon request by the ***office***[~~division~~], names and addresses of the consumer/investors shall be made available for verification of the earnings claims. If such actual or hypothetical earnings examples are in excess of the average net earnings realized by all of the consumer/investors of the business opportunity, then there must be a full and complete disclosure of the average net earnings actually realized by all of these consumer/investors.

Section 17. KRS 367.813 is amended to read as follows:

(1) Prior to the solicitation of potential consumer/investors the offeror shall furnish and display to the potential consumer/investor a copy of the material required to be furnished the ***office***[~~division~~] when registering pursuant to KRS 367.805.

(2) When furnishing the information required by subsection (1) of this section, the offeror shall furnish the prospective consumer/investor with a notice in at least ten (10) point bold-face type, stating that registration with the ***office***[~~division~~] does not directly or indirectly imply approval by the ***office***[~~division~~] or the Commonwealth of Kentucky of the business opportunity or any of the activities of representatives selling such business opportunities.

Section 18. KRS 367.815 is amended to read as follows:

(1) Any person who offers a business opportunity and makes representations that are false, misleading, or deceptive shall be liable to the consumer/investor of such business opportunity in an amount equal to the sum of his actual damages or fifteen hundred dollars ($1,500), whichever is greater, as well as the cost of the action together with reasonable attorney's fees, as determined by the court.

(2) (a) All persons registering pursuant to KRS 367.805 shall either furnish a bond by a surety company authorized to do business in the Commonwealth or establish a full cash certificate of deposit with a licensed and insured bank or savings institution located in the Commonwealth to insure the veracity of all statements contained in the registration. The amount of the bond or certificate of deposit shall be in an amount equal to the total amount of the initial payments under all business opportunity agreements the offeror has entered into in the Commonwealth during the previous year but in no case shall the amount be less than seventy-five thousand dollars ($75,000). The bond or certificate of deposit shall be in the favor of the Attorney General of Kentucky.

(b) Any person who is damaged by any violation of KRS 367.801 to 367.819, or by the offeror's breach of contract for the business opportunity sale, or of any obligation arising therefrom may bring an action against the bond or certificate of deposit to recover damages suffered, provided that the aggregate liability of the surety or trustee shall be only for the actual damages and shall not exceed the amount of the bond or trust account.

(3) A person who has furnished a bond described in subsection (2) of this section may petition the ***office***[~~division~~] for release of the bond by submitting a verified statement that such person has not offered business opportunities in the state for the last five (5) years.

(4) Any offeror of a business opportunity who has offered or sold in this state shall maintain a complete set of books, records, and accounts of its business opportunity sales. The sale documents shall be maintained on each transaction for a period of four (4) years after the date of agreement. The offeror shall make the books and records available to the ***office***[~~division~~] upon demand at a location within the state.

Section 19. KRS 367.905 is amended to read as follows:

(1) Any person, corporation, partnership, association, or group intending to open or operate a health spa within the Commonwealth, shall:

(a) File a registration statement, accompanied by a one hundred dollar ($100) initial registration fee, with the Attorney

General's ***Office***[~~Division~~] of Consumer Protection prior to the sale of any memberships in the Commonwealth of Kentucky. Such a registration statement shall contain the name and address of the health spa; the names and addresses of the officers, directors, and stockholders of the health spa and its parent corporation, if such an entity exists; the type of available facilities; approximate size of the health spa measured in square feet; whether or not a shower area is provided; the names and addresses of employees and their respective qualifications for employment in the health spa field; type of membership plans to be offered and their cost; and a full and complete disclosure of any completed or pending litigation initiated against the health spa and any of its officers or directors within the last three (3) years.

(b) Prior to the sale of any memberships in the Commonwealth of Kentucky, provide the Attorney General's ***Office***[~~Division~~] of Consumer Protection with a surety bond meeting the requirements of KRS 367.906.

(2) A new registration statement, accompanied by an annual registration fee of fifty dollars ($50), shall be filed with the Attorney General's ***Office***[~~Division~~] of Consumer Protection on or before July 1 of each year following the opening of the health spa.

(3) Each health spa selling contracts on a prepayment basis shall deposit all funds received from such contracts in an escrow account until the health spa has remained open for a period of thirty (30) days. At the end of this thirty (30) day period, such prepayment funds shall be eligible for withdrawal at the depositor's discretion.

(4) Each health spa registering pursuant to this statute shall maintain in the files of the health spa, a copy of its registration statement filed pursuant to this section. This registration statement shall be made available for inspection by current health spa members or prospective purchasers of health spa memberships.

(5) The registration fees required by this section shall be credited to a trust or agency account for the administrative purposes of the Attorney General's ***Office***[~~Division~~] of Consumer Protection, as set forth in KRS 367.900 to 367.930.

(6) Each separate location where health spa services are offered shall be considered a separate health spa and shall file a separate registration statement and surety bond, even though the separate locations are owned or operated by the same owner.

Section 20. KRS 367.906 is amended to read as follows:

(1) The surety bond required by KRS 367.905(1)(b) shall be in favor of the Attorney General's ***Office***[~~Division~~] of Consumer Protection and shall be held for compensation to any member who suffers loss of money paid due to the insolvency of the health spa, cessation of operation of the health spa, or failure of the health spa to open for business within ninety (90) days from the sale of the first contract.

(2) The bond shall be in a form prescribed by the Attorney General's ***Office***[~~Division~~] of Consumer Protection and shall be issued by a company authorized to transact business in the Commonwealth of Kentucky.

(3) The amount of the bond shall be computed as follows:

Number of unexpired contracts	Amount of bond
150 or fewer	$10,000
151 to 300	$25,000
301 or more	$50,000

(4) The Attorney General's ***Office***[~~Division~~] of Consumer Protection shall exempt a spa from the bonding requirement if all of its unexpired contracts and present membership plans meet the following criteria:

(a) No initiation fee, or similar nonrecurring fee, is charged at or near the beginning of the contract term or renewal period, and

(b) At no time is any member charged for use of facilities or services more than thirty-one (31) days in advance.

(5) If, because of an increase in membership or change in membership plans, a spa is required to file a bond or increase the amount of its bond, it shall notify the Attorney General's ***Office***[~~Division~~] of Consumer Protection in writing at least thirty (30) days prior to the expected change. No contract in excess of the limits stated in subsection (3) of this section or not in compliance with subsection (4) of this section shall be sold until a new bond in the required amount has been provided.

(6) A change in ownership shall not release, cancel or terminate liability under any bond previously filed unless the Attorney General's ***Office of*** Consumer Protection [~~Division~~] agrees in writing to the release, cancellation or termination because the new owner has filed a new bond for the benefit of the previous owner's members, or because the former owner has paid the required refunds to its members.

Section 21. KRS 367.932 is amended to read as follows:

As used in KRS 367.934 to 367.974 and 367.991, unless the context requires otherwise:

(1) "Attorney General" means ***the Office***[~~Division~~] of Consumer Protection in the Office of the Attorney General.

(2) "Financial institution" means a bank, trust company, federally chartered credit union, or savings and loan association authorized by law to do business in this state.

(3) "Preneed burial contract" means a contract, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person whose body is to be disposed of; but does not mean the furnishing of a cemetery lot or mausoleum.

(4) "Agent" means the licensee who is the person, partnership, association or corporation receiving any payments on a preneed funeral contract.

(5) "Trustee" means the financial institution.

(6) "Person" means an individual, corporation, partnership, joint venture, association, business trust, or any other form of business organization; provided, however, that an individual employee of an entity registered pursuant to KRS 367.934 to 367.974 and 367.991 shall not be required to comply with the registration requirement herein.

(7) "Remains" means the bodies of deceased persons, in whatever stage of decomposition, and cremated remains.

(8) "Cemetery" means any one (1) or combination of more than one (1) of the following in a place used or to be used and dedicated or designated for such purposes:

(a) A burial park, for earth interment.

(b) A mausoleum, for entombment.

(c) A columbarium, for inurnment.

(9) "Mausoleum" means a building or structure substantially exposed above ground used or intended to be used for the entombment of human remains, which is sold or offered for sale to the public.

(10) "Columbarium" means a structure or building substantially exposed above ground intended to be used for the inurnment of cremated remains and sold or offered for sale to the public.

(11) "Columbarium niche" means an inurnment space in a columbarium as defined herein.

(12) "Cemetery company" means any person, who conducts the business of a cemetery. Excepted are small community cemeteries, their agents, lessees and otherwise that operate nonprofit; have no salaried employees, directors, officers or managers other than maintenance caretakers; are owned, controlled by lot owners; and do not sell any preneed merchandise or services.

(13) "Grave space" means a space of ground in a cemetery intended to be used for the interment in the ground of the remains of one (1) human being.

(14) "Underground crypt" means a single unit entombment space in preplaced chambers below ground and also known as lawn crypt, westminister turftop mausoleum or below ground crypt.

(15) "Bank of underground crypts" means any construction unit of twenty (20) or more underground crypts designed as a part of a below ground crypt program, whether physically connected or not, having a common drainage system.

(16) "Mausoleum crypt" means an entombment space in a mausoleum as defined herein.

(17) "Cemetery merchandise" means urns, memorials, monuments, markers, vases, foundations, memorial bases, and other similar personal property commonly sold by or used in cemeteries.

(18) "Preneed cemetery merchandise contract" means any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or delivery of cemetery merchandise, which within six (6) months of the date of the contract is not attached to the realty and permanently installed or which is not stored in a bonded warehouse with the receipt of ownership issued by the manufacturer in the name of the purchaser and transmitted to the purchaser.

Section 22. KRS 367.954 is amended to read as follows:

(1) Forty percent (40%), not including interest or finance charges, of all payments of money made to any person, partnership, association, or corporation upon any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or delivery of cemetery merchandise, which within six (6) months of the date of the contract is not delivered by attachment to the realty and permanent installation or which is not stored in a bonded warehouse with the receipt of ownership issued by the manufacturer in the name of the purchaser and transmitted to the purchaser are held to be trust funds. The person, partnership, association, or corporation receiving the payments shall deposit forty percent (40%) of all payments received on a preneed cemetery merchandise contract in a trust fund account within six (6) months of the date of contract, and forty percent (40%) of all payments received thereafter on said contract shall be deposited in the trust fund account within thirty (30) days after each calendar quarter of operation. The trustee shall be the financial institution holding said funds. All of the interest, dividends, increases, or accretions of whatever nature earned by the funds deposited in a trust account shall remain with the principal of such account and become a part thereof, subject to all of the regulations concerning the principal of said fund herein contained.

(2) All trust funds mentioned in this section shall be deposited in the name of the person making said deposits, with the financial institution as trustee, and shall be held together with the interest, dividends, or accretions thereon, in trust, subject to the provisions of KRS 367.932 to 367.974 and 367.991. The person at the time of making deposit or investment shall furnish to the financial institution the name of each payor, and the amount of payment on each account for which the deposit or investment is being made.

(3) Forty percent (40%) of all payments, not including interest or finance charges, made under the agreement, contract, or plan are and shall remain trust funds with the financial institution, until the financial institution receives a sworn affidavit from the depositor stating one of the following:

(a) That the delivery of all merchandise by attachment to the realty, or permanent installation of the merchandise has been completed and that there has been full performance of all services called for by the agreement, contract or plan; or

(b) That there has been delivery of all of the merchandise called for by the agreement by storing the same in a bonded warehouse with the receipt of ownership issued by the manufacturer in the name of the purchaser and transmitted to the purchaser.

Upon receiving said affidavit, the financial institution shall remit the funds on deposit for the performed contract, plus interest, to the depositor. Release of funds may also be made pursuant to a request for a refund or cancellation under KRS 367.932 to 367.974 and 367.991.

(4) In the event that a purchaser is in default of a preneed cemetery merchandise contract, the financial institution shall release to the depositor the funds, plus interest, deposited on behalf of the defaulted contract upon receiving from the depositor a sworn affidavit stating that the purchaser is in default of the preneed cemetery merchandise agreement, the date of the default, an explanation of the default, and that the depositor has mailed a copy of the affidavit to the purchaser's last known address at least thirty (30) days prior to said request for release.

(5) Deposits to such funds and the amounts deposited may be commingled, but the accounting records shall establish a separate account for each prepaid contract and shall show amounts deposited and the income and loss occurring thereon with respect to each contract.

(6) The trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of KRS 367.932 to 367.974 and 367.991, and shall not be liable to any person for such reliance.

(7) In lieu of the trust fund deposits required herein, the person may post with the Attorney General, ***Office***[~~Division~~] of Consumer Protection, a good and sufficient bond by a surety company licensed to do business in Kentucky and in an amount sufficient to cover all payments made by or on account of purchasers who have not received the purchased property and services. This bond shall be held for the benefit of a purchaser, or his or her heir or assign or duly authorized representative, who suffers a loss of money paid pursuant to a preneed cemetery merchandise contract entered into after July 13, 1984, due to the insolvency of the registrant, or failure to provide the cemetery merchandise called for by contract that has been paid in full and not provided after a ninety (90) day request in writing to do so. If a bond is posted, the Attorney General's office shall receive sixty (60) days' written notice in the event of cancellation. On or before the cancellation date, the person shall comply with the trust fund requirements herein or post another good and sufficient bond.

(8) Any person selling a preneed cemetery merchandise contract shall pay to the Attorney General five dollars ($5), for each said contract entered into and all of which fees shall be remitted by the person collecting them to the Attorney General at least once each month, and such funds shall be used by the Attorney General in administering this chapter.

Section 23. KRS 367.958 is amended to read as follows:

(1) Every person before engaging in a sale, contract for sale, reservation for sale or agreement for sale of a mausoleum crypt within a mausoleum, underground crypt within a crypt section, or columbarium niche within a mausoleum prior to the completion of the construction thereof, shall give notice in writing to the Attorney General of the commencement of such sale at least thirty (30) days prior thereto and register with the Attorney General. Such registration shall be on forms provided by the Attorney General.

(2) Every person engaged in the sale of a mausoleum crypt, underground crypt or columbarium niche shall commence construction thereof within twenty-four (24) months of the date of such sale and shall complete such construction within sixty (60) months of the date of such sale. A delay caused by strike, national emergency, shortage of materials, civil disorder, natural disaster or any like occurrence beyond the control of such person shall extend the time of such commencement and completion by the length of such delay. This subsection shall not apply to the sale of mausoleum crypts, underground crypts or columbarium niches if there has been any sale in the same project prior to July 13, 1984. Prior projects shall have commenced construction thereof within thirty-six (36) months of the date of such sale and shall complete construction within seventy-two (72) months of the date of such sale.

(3) Every person who plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust account. The trust account shall be administered and operated in the same manner as the merchandise trust account provided for in this chapter and shall be exclusive of the merchandise trust account or such other trust accounts or funds that may be required by law.

(4) Every person shall place thirty-six percent (36%), not including interest or finance charges, of all payments of money made to any person pursuant to any agreement, contract or any series or combination of agreements or contracts which are for the purchase of sections in a mausoleum, columbarium, or any kind of underground crypt which at the time of the payment of money have not been completely and totally constructed, in a trust fund account in a financial institution within thirty (30) days after each calendar quarter of operations. Excepted therefrom, however, are persons who have constructed in the

past their own mausoleum using primarily equipment owned by the self-constructing person and their own personnel with a minimum of subcontracting, and in that event there shall be deposited a minimum of twenty percent (20%) of all payments of money, subject, however, to the actual cost. If, from project to project, their actual cost is in excess of twenty percent (20%), the full cost percentage shall be deposited from project to project, not to exceed thirty-six percent (36%). At the time of notification to the Attorney General's office the self-constructing mausoleum person shall also notify the Attorney General that he intends to self-construct and the percentage of contribution of trust that is required.

(5) All trust funds mentioned in this section shall be deposited in the name of the person depositing said funds, with the financial institution as trustee, and shall be held together with the interest, dividends, or accretions thereon, in trust, subject to the provisions of KRS 367.932 to 367.974 and 367.991. The person at the time of making deposit or investment shall furnish to the financial institution the name of each payor, and the amount of payment on each account for which the deposit or investment is being made.

(6) Deposits to such funds and the amounts deposited may be commingled, but the accounting records shall establish a separate account for each prepaid contract and shall show amounts deposited and the income and loss occurring thereon with respect to each contract.

(7) All payments made to the preconstruction trust fund account shall remain in the trust fund with the financial institution until the financial institution receives a certified statement from the depositor stating that the particular project for which the preconstruction trust fund has been established is totally completed. During the construction stage, trust funds may be withdrawn by presenting the trustee with appropriate evidence of expenditure for construction cost. The trustee shall thereupon disburse moneys from the trust fund to pay for the expenses of construction presented for payment.

(8) A trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of KRS 367.932 to 367.974 and 367.991, and shall not be liable to any person for such reliance.

(9) If a mausoleum section or bank of underground crypts is not completed within the time limits set out in KRS 367.932 to 367.974 and 367.991, the financial institution acting as trustee, if any, may contract for and cause said project to be completed and paid therefor from the trust account funds deposited to the project's account, paying any balance, less cost and expenses, to the depositor. In the event there is no corporate trustee, or the trustee chooses not to serve in the capacity to complete construction, the Attorney General shall appoint a committee to serve as trustees to trust account funds deposited to the project's account, paying any balance, less cost and expenses, to the cemetery company.

(10) If it is determined by the trustee after the expiration of the time of construction set out above that there is not enough money in the trust fund account to complete the project, the trustee shall make a refund of all moneys held to all purchasers, or his heirs or assigns, in the amount of the deposit to the credit of their particular contract and all income those funds have earned. The purchasers shall be entitled to receive any remainder of the purchase price paid from the depositor. However, nothing herein contained shall relieve any person from any liability for nonperformance of the contract terms.

(11) If temporary entombment or inurnment is not used, upon written notification to the seller, the personal representative or any purchaser of such space who dies before completion of construction shall be entitled to a refund of all moneys paid into the preconstruction trust fund for such space, including any income earned thereon, and from the seller, the remainder of the purchase price paid.

(12) In lieu of the trust fund deposits required herein, the person may post with the Attorney General, ***Office***~~[Division]~~ of Consumer Protection, a good and sufficient bond by a surety company licensed to do business in Kentucky and in an amount sufficient to cover all payments made by or on account of purchasers who have not received the purchased property and services. This bond shall be held for the benefit of any purchaser, or his or her heir or assign or duly authorized representative, who suffers a loss of money paid for a preconstructed mausoleum crypt or niche or underground crypt after July 13, 1984, due to the insolvency of the registrant, or failure to construct within the time limits set out herein. If a bond is posted, the Attorney General's office shall receive sixty (60) days' written notice in the event of cancellation. On or before the cancellation date, the person shall comply with the trust fund requirements herein or post another good and sufficient bond.

(13) Any person selling preconstruction mausoleum, columbarium or underground crypt contracts shall pay to the Attorney General five dollars ($5) for each sale of said contract and all of which fees shall be remitted by the person collecting them to the Attorney General at least once each month, and such funds shall be used by the Attorney General in administering this chapter.

Section 24. KRS 367.976 is amended to read as follows:

As used in KRS 367.976 to 367.985, unless the context otherwise requires:

(1) "Advertisement" means a commercial message in any medium that aids, promotes, or assists directly or indirectly a rental-purchase agreement, excluding in-store merchandising aids.

(2) "Cash price" means the price at which the lessor would have sold the property to the consumer for cash on the date of the rental-purchase agreement.

(3) "Consumer" means a natural person who rents personal property under a rental-purchase agreement.

(4) "Consummation" means the time a consumer becomes contractually obligated on a rental-purchase agreement.

(5) "***Office***[~~Division~~]" means the ***Office***[~~Division~~] of Consumer Protection in the Office of the Attorney General.

(6) "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under a rental-purchase agreement.

(7) "Rental-purchase agreement" means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four (4) months or less, whether or not there is any obligation beyond the initial period, that is automatically renewable with each payment and that permits the consumer to become the owner of the property. The term rental-purchase agreement shall not be construed to be, nor be governed by, any of the following:

(a) A lease or agreement which constitutes a credit sale as defined in 12 C.F.R. part 226.2(a)(16) and Section 1602(g) of the Truth in Lending Act, 15 U.S.C. secs. 1601 et seq.;

(b) A lease which constitutes a consumer lease as defined in 12 C.F.R. part 213.2(a)(6);

(c) Any lease for agricultural, business, or commercial purposes;

(d) Any lease made to an organization;

(e) A lease or agreement which constitutes a retail installment transaction or retail installment contract as defined in KRS 371.210;

(f) A security interest as defined in KRS 355.1-201(37); or

(g) A home solicitation sale as that term is defined in KRS 367.410.

Section 25. KRS 367.981 is amended to read as follows:

(1) A renegotiation shall occur when an existing rental-purchase agreement is satisfied and replaced by a new lease agreement undertaken by the same consumer. A renegotiation shall be a new agreement covered by KRS 367.976 to 367.985. However, events such as the following shall not be treated as a renegotiation:

(a) The addition or return of property in a multiple item agreement or the substitution of lease property, if in either case the average payment allocable to a payment period is not changed by more than twenty-five percent (25%);

(b) A deferral or extension of one (1) or more periodic payments, or portions of a periodic payment;

(c) A reduction in charges in the agreement;

(d) An agreement involving a court proceeding; or

(e) Any other event described in administrative regulations prescribed by the ***office***[~~division~~].

(2) No disclosures shall be required for any extension of a rental-purchase agreement.

Section 26. KRS 367.985 is amended to read as follows:

(1) A lessor shall not be liable under KRS 367.983 for a violation of KRS 367.976 to 367.985 if the lessor shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, such as a clerical miscalculation, computer malfunctions, programming error, or printing error, even though the lessor maintained procedures reasonably adapted to avoid such an error. An error of legal judgment with respect to requirements of this title shall not be considered a bona fide error.

(2) A lessor shall not be liable under KRS 367.983 for any act done or omitted in good faith in conformity with any administrative regulation or interpretation promulgated by the Attorney General or by the ***office***[~~division~~] or by an official duly authorized by the Attorney General or by the ***office***[~~division~~]. This rule shall apply even if, after the act or omission has occurred, the regulation or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(3) A lessor shall not be liable under KRS 367.983 for any error if, before the thirty-first day after the date the merchant discovers the error and before an action against the lessor has been filed or written notice of the error received by the lessor, the lessor gives the consumer written notice of the error and makes adjustments in the consumer's account as necessary to assure that the consumer will not be required to pay an amount in excess of the amount disclosed and that the agreement otherwise complies with KRS 367.976 to 367.985.

Section 27. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged

sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year knowingly and willfully violates KRS 367.46955(15)(a) by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office of the Attorney General, ***Office***[~~Division~~] of Consumer Protection.

(24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list identified in KRS 367.46955(15) for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

(25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars ($5,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.

(c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.

(d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

Section 28. KRS 380.040 is amended to read as follows:

(1) Subject to subsection (3) of this section, a person, whether or not located in this state, engaged in debt adjusting shall do both of the following:

(a) Unless specifically instructed otherwise by a debtor, disburse to the appropriate creditors all funds received from the debtor, less any contributions or fees not prohibited by subsection (2) of this section, within thirty (30) days of receipt of the funds from the debtor; and

(b) Maintain a separate trust account for the receipt of any funds from debtors and the disbursement of the funds to creditors on behalf of the debtors.

(2) If contributions or fees for engaging in debt adjusting are accepted, directly or indirectly, a person engaged in debt adjusting shall not do any of the following:

(a) Accept a contribution or fee exceeding seventy-five dollars ($75) from a debtor residing in this state for an initial set up;

(b) Accept a consultation contribution or fee exceeding fifty dollars ($50) per calendar year from a debtor residing in this state; or

(c) Accept a periodic contribution or fee from a debtor who resides in this state that exceeds the greater of eight and one-half percent (8.5%) of the amount paid by the debtor each month for distribution to the debtor's creditors or thirty dollars ($30).

(3) Subsections (1) and (2) of this section shall not prohibit a person engaged in debt adjusting for a debtor who resides in this state from charging the debtor a bad check charge of twenty dollars ($20) or the amount passed on from the debt adjuster's bank, whichever is greater, in addition to contributions or fees not prohibited by subsection (2) of this section.

(4) Fees or contributions permitted in subsections (1), (2), and (3) of this section may be adjusted on an annual basis by the amount equivalent to any increase in the consumer price index, published by the United States Department of Labor, Bureau of Labor Statistics.

(5) Any person that engages in debt adjusting shall file an initial registration form, accompanied by an initial registration fee of two hundred fifty dollars ($250), and the registration shall be renewed each year thereafter for a fee of two hundred fifty dollars ($250) to cover the actual cost of filing the registration, in accordance with administrative regulations promulgated by the Attorney General.

(6) Any person that engages in debt adjusting shall arrange for and undergo an annual audit of the person's business, including any trust funds deposited and distributed to creditors on behalf of debtors, which shall be conducted by an independent, third-party certified public accountant. Both of the following shall apply to an audit performed under this subsection:

(a) The person shall file the results of the audit and the auditor's opinion with the ***Office of*** Consumer Protection[~~ Division~~] of the Office of the Attorney General within thirty (30) days of the anniversary date of filing the initial registration; and

(b) The Attorney General shall make available a summary of the results of the audit and the auditor's opinion upon written request of any person and payment of a fee not to exceed the cost of copying the summary and opinion.

(7) A person engaged in debt adjusting shall obtain and at all times maintain insurance coverage for errors and omissions, employee dishonesty, depositor's forgery, and computer fraud in the amount of ten percent (10%) of the monthly average for the immediately preceding six (6) months of the aggregate amount of all deposits made with the person by all debtors. The insurance coverage shall comply with all of the following:

(a) The minimum limit of the insurance coverage shall not be less than one hundred thousand dollars ($100,000), and the maximum limit of the insurance coverage shall not be more than two hundred fifty thousand dollars ($250,000);

(b) The insurance coverage shall not include a deductible in excess of ten percent (10%) of the face amount of the policy coverage;

(c) The insurance coverage shall be issued by an insurer and rated at least A-, or its equivalent, by a nationally recognized rating organization; and

(d) The insurance coverage shall provide that the ***Office of*** Consumer Protection [~~Division~~]of the Office of the Attorney General shall be named as an additional interested party.

(8) Any person engaged in debt adjusting shall comply with the provisions of this section.

Section 29. KRS 403.707 is amended to read as follows:

(1) The Council on Domestic Violence and Sexual Assault shall create a Sexual Assault Response Team Advisory Committee.

(2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Kentucky State Police or the commissioner's designee.

(3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:

(a) The executive director of the Kentucky Board of Nursing or the executive director's designee;

(b) The executive director of the Kentucky Nurses Association or the executive director's designee;

(c) The executive director of the Kentucky Hospital Association or the executive director's designee;

(d) The director of the Kentucky State Police Crime Lab;

(e) The chief medical examiner or the chief medical examiner's designee;

(f) The executive director of the Division of Child Abuse and Domestic Violence Services or the executive director's designee;

(g) The ***executive*** director of the ***Office of*** Victims' Advocacy[~~ Division~~] of the Office of the Attorney General or the director's designee;

(h) A sexual assault nurse examiner serving on the Governor's Council on Domestic Violence and Sexual Assault;

(i) A representative from a sexual assault response team serving on the Council on Domestic Violence and Sexual Assault;

(j) A physician appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault; and

(k) A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault.

(4) Members appointed under paragraphs (h) to (k) of subsection (3) shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.

(5) The Sexual Assault Response Team Advisory Committee shall:

(a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;

(b) Serve in an advisory capacity to the chief medical examiner in the development of the statewide sexual assault protocol required under KRS 216B.400(4);

(c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;

(d) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and

(e) Recommend to the Council on Domestic Violence and Sexual Assault any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

Section 30. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 31. The General Assembly confirms the Attorney General's Executive Order AG 06-01, dated May 16, 2006, relating to the organization of the Department of Law, to the extent it is not otherwise confirmed or superseded by this Act.

HB 198, AN ACT relating to jurisdictional limits for Kentucky courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.230 is amended to read as follows:

(1) The small claims division shall have jurisdiction, concurrent with that of the District Court, in all civil actions, other than libel, slander, alienation of affections, malicious prosecution and abuse of process actions, when the amount of money or damages or the value of the personal property claimed does not exceed ***three***[~~one~~] thousand[~~ five hundred~~] dollars ***($3,000)***[~~($1,500)~~] exclusive of interest and costs.

(2) The division may also be used in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of ***three***[~~one~~] thousand[~~ five hundred~~] dollars ***($3,000)***[~~($1,500)~~] exclusive of interest and costs.

(3) The division shall have authority to grant appropriate relief, except no prejudgment actions for attachment, garnishment, replevin or other provisional remedy may be filed in the division.

Section 2. KRS 24A.290 is amended to read as follows:

The defendant may file with the clerk a counterclaim against the plaintiff in an amount not in excess of ***three thousand***[~~fifteen hundred~~] dollars ***($3,000)***[~~($1,500)~~] exclusive of interest and costs, if the counterclaim arose out of the same transaction or occurrence that is the subject matter of the plaintiff's claim, and if the counterclaim does not require for its adjudication the presence of third parties over whom the division cannot acquire jurisdiction. Any counterclaim shall be filed with the clerk, and a copy delivered to the plaintiff at least five (5) days prior to the time of the hearing. If the defendant's counterclaim is in excess of the jurisdictional limits of the division, then the provisions of KRS 24A.310(1) shall apply.

HB 403, AN ACT relating to consortium.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.145 is amended to read as follows:

(1) As used in this section "consortium" means the right to the services, assistance, aid, society, companionship and conjugal relationship between husband and wife ***and includes consortium which a surviving spouse would reasonably have been expected to enjoy in the future if his or her spouse had survived***[~~, or wife and husband~~].

(2) ***A spouse or surviving spouse***[~~Either a wife or husband~~] may recover damages[~~ against a third person~~] for loss of consortium, resulting from ***the negligence***[~~ a negligent~~] or wrongful ***conduct of any party that causes or contributes to cause injury to or the death of his or her spouse***[~~ act of such third person~~].

(3) The rights of a surviving spouse to bring a cause of action under this section shall be in addition to any action brought by the personal representative pursuant to KRS 411.130 and all other elements of damages that are usually recoverable in a wrongful death action.

(4) The causes of action under this section shall be independent causes of action from the underlying injury claim sustained by the injured or deceased spouse. However, an action arising under this section shall be commenced pursuant to the limitations of action that apply to the underlying claim arising from the injury or death of the spouse.

(5) This section shall be retroactive and shall apply to new actions accruing on or after that date and actions in process as of that date which have not reached final judgment.

The Committee Substitute to **HB 403** is as follows:

HB 403, AN ACT relating to consortium.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "consortium" means the right to the services, assistance, aid, society, companionship, and conjugal relationship between husband and wife, or wife and husband, and includes consortium which the surviving spouse would reasonably have been expected to enjoy in the future if the deceased spouse had survived, and is a derivative claim.

(2) In a wrongful death action in which the decedent was a spouse, the surviving spouse may recover for loss of

consortium resulting from the negligence or wrongful conduct of any party that causes or contributed to the death of the spouse.

(3) If the wrongful death action is not brought by the spouse, the spouse may join the action to recover the damages allowed by this section. Damages recovered by a spouse under this section shall be distributed directly to the spouse, and shall not be subject to distribution under KRS 411.130(2).

(4) This section is remedial in nature and therefore shall be retroactive to apply to all causes of action existing at the time of the effective date of this Act, whether filed or unfiled, which had not reached final judgment by that date and for which the statute of limitations had not expired.

Section 2. Whereas the provisions of this Act remedy a tragic injustice worked upon the grieving surviving spouses of our fellow Kentuckians and the civil justice system exists to bring justice for the wrongful and irreplaceable loss of loved ones and no just cause exists for delay in implementing the provisions of this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 403** is as follows:

HB 403, By amending the title to read as follows: "AN ACT relating to consortium and declaring an emergency.".

Calendar

HB 305, 216, HR 73, HB 108, 319, 430, 4, 8, 130, 212, 228, 293, 295, 325, 386, 400, 418, HJR 118, HB 103, 109, 234, 345, 352, 362, 152, 196, 337, 252, 282, HCR 120, and **HB 219** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 184, 185, 4, 8, 103, 212, 219, 228, 252, 282, 295, 305, 345,** and **362** have been posted for passage in the Regular Orders of the Day for February 20, 2007.

Representative Stein moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Stein moved the adoption of the following **HR 149**:

HR 149, A RESOLUTION honoring the University of Kentucky Wildcats Football Team, 2006 Music City Bowl Champions.

WHEREAS, on Friday, December 29, 2006, before a crowd of 68,024 at LP Field in Nashville, the University of Kentucky Wildcats defeated the Tigers of Clemson University by a score of 28-20 to win the 2006 Gaylord Hotels Music City Bowl; and

WHEREAS, the victory capped off what was the finest season for the Wildcats in some time, with an 8-5 final record, the most wins in a season since 1984, a victory over traditional SEC power Georgia, and the school's first bowl victory in over 20 years; and

WHEREAS, the Wildcats were led by junior quarterback Andre Woodson, who completed 20 of 28 pass attempts for 299 yards and three touchdowns and was named the MVP of the game; and

WHEREAS, during the game, Woodson distributed the ball to many of the amazing nine different receivers, including junior standout Keenan Burton, who led the Wildcats with five receptions, and Jacob Tamme, Dicky Lyons, and Demoreo Ford, who each caught a touchdown pass; and

WHEREAS, the sometimes-maligned Wildcat defense rose to the occasion and was a huge key to the Wildcat victory, holding Clemson to less than 200 total yards in the first three quarters of play, forcing four turnovers, and sacking the Clemson quarterback four times; and

WHEREAS, the defense was led by sophomore linebacker Wesley Woodyard, whose team high 12 tackles included one sack and one forced fumble; linemen Jeremy Jarmon and Myron Pryor, who each recorded one sack; and freshman cornerback Trevard Lindley, who intercepted one pass and recovered a fumble; and

WHEREAS, the success of the Wildcat program is directly a result of the efforts of head coach Rich Brooks and an experienced and talented staff of coordinators and position coaches who have led the Wildcats from the depths of probation to these lofty heights, where the future of Wildcat football looks incredibly bright; and

WHEREAS, the accomplishments and efforts of this talented group of young men will forever be remembered in the annals of UK sports history, as the 2006 Kentucky Wildcats are arguably the best football squad the school has produced in the last two decades; and

WHEREAS, it is only fitting that this team be publicly saluted for its tremendous achievements and the notoriety it has brought to the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this body, both individually and collectively, do hereby congratulate the University of Kentucky Football Wildcats, coach Rich Brooks, Director of Athletics Mitch Barnhart, and President Lee Todd on their victory in the 2006 Gaylord Hotels Music City Bowl and all their accomplishments of the past season, and wish them future success in all their endeavors.

Section 2. That the members of this body commend the efforts and dedication of this group of talented student athletes as role models for the youth of our Commonwealth;

Section 3. The Clerk of the House of Representatives shall forward of a copy of this Resolution to Mitch Barnhart, Director of Athletics, UK Athletics, Memorial Coliseum, Lexington, KY 40506.

There being no objection, **HR 149** was adopted.

Orders of the Day

HB 258 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved that **HB 258** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 16, 2007, roll call on **HB 258** - Appendix.)

HB 258 was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 258** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 69, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of Floor Amendment No. 2 to **HB 69**. Agreed.

Representative Arnold moved that **HB 69**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 16, 2007, roll call on **HB 69** - Appendix.)

HB 69, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 69**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 332 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 332** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 16, 2007, roll call on **HB 332** - Appendix.)

HB 332 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 332** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 46 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved that **HB 46** be passed.

On the roll call the vote was: **Yeas 76, Nays 19.** (See February 16, 2007, roll call on **HB 46** - Appendix.)

HB 46 was passed and the title agreed to.

Representative Thompson moved that the vote by which **HB 46** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 19 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HCR 19** be adopted.

On the roll call the vote was: **Yeas 96, Nays 1.** (See February 16, 2007, roll call on **HCR 19** - Appendix.)

HCR 19 was adopted.

Representative Nelson moved that the vote by which **HCR 19** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 6 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rollins moved that **HB 6** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 16, 2007, roll call on **HB 6** - Appendix.)

HB 6 was passed and the title agreed to.

Representative Rollins moved that the vote by which **HB 6** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 326, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 326**. Agreed.

Representative Moberly moved that **HB 326**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 16, 2007, roll call on **HB 326** - Appendix.)

HB 326, by way of Committee Substitute, was passed.

Representative Moberly moved the adoption of Committee Amendment No. 1 Title to **HB 326**. Agreed.

Representative Moberly moved that the vote by which **HB 326**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 201 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weston moved that **HB 201** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 16, 2007, roll call on **HB 201** - Appendix.)

HB 201 was passed and the title agreed to.

Representative Weston moved that the vote by which **HB 201** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 82, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of the Committee Substitute to **HB 82.** Agreed.

Representative Denham moved that **HB 82,** by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 16, 2007, roll call on **HB 82** - Appendix.)

HB 82, by way of Committee Substitute, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 82,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 370 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 370** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 16, 2007, roll call on **HB 370** - Appendix.)

HB 370 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 370** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 125 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HB 125** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 16, 2007, roll call on **HB 125** - Appendix.)

HB 125 was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 125** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 215 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adams moved that **HB 215** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 16, 2007, roll call on **HB 215** - Appendix.)

HB 215 was passed and the title agreed to.

Representative Adams moved that the vote by which **HB 215** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 5, with Committee Substitutes and Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the Committee Substitute No. 2 to **HB 5.** Agreed.

Representative Adkins moved the adoption of Floor Amendment No. 1, to the Committee Substitute No. 2 to **HB 69.** Agreed.

Representative Adkins moved that **HB 5**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 1**. (See February 16, 2007, roll call on **HB 5** - Appendix.)

HB 5, by way of Committee Substitute, as amended, was passed.

Representative Adkins moved the adoption of Committee Amendment No. 1 Title to **HB 5**. Agreed.

Representative Adkins moved that the vote by which **HB 5**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Weston moved that **HB 412** be withdrawn. Agreed.

Representative Jenkins moved the adoption of the following **HR 140**:

HR 140, A RESOLUTION urging United States Senator Mitch McConnell and United States Representative John Yarmuth to obtain additional funding for the Louisville Bridges project.

WHEREAS, the Commonwealth of Kentucky realizes an economic benefit as a result of an efficient transportation system; and

WHEREAS, the Louisville Bridges project is an integral component of a long-term transportation plan for the Louisville and Southern Indiana region and the Commonwealth as a whole; and

WHEREAS, it is incumbent upon policymakers to develop strategies to finance the costs of the project so that it is developed efficiently and equitably in consideration of transportation infrastructure needs throughout the Commonwealth; and

WHEREAS, the Kentucky Transportation Cabinet announced in December, 2006 that project cost estimates are projected to increase from slightly more than $2 billion to nearly $4 billion over the eighteen-year life of the project; and

WHEREAS, there exists considerable doubt that the Louisville Bridges project can be developed solely within conventional road financing programs; and

WHEREAS, the scope and regional nature of the Louisville Bridges project render the project worthy of consideration for the appropriation of additional federal funds based on the regional transportation needs it fulfills and the economic development it promotes; and

WHEREAS, Senator Mitch McConnell is the senior Senator representing the Commonwealth of Kentucky, and Representative John Yarmuth represents the 3rd Congressional District in the House of Representatives, the district comprising the Louisville area, and both by virtue of positions they occupy, have opportunity to influence decisions with respect to the allocation of federal resources;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges Senator Mitch McConnell and Representative John Yarmuth to obtain additional federal funding for the Louisville Bridges project to maintain the safety of the motoring public, to promote regional and statewide development, and to maintain equity and viability in Kentucky's six year highway plan and long-term transportation plan.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution to Senator Mitch McConnell and Representative John Yarmuth at their offices in Washington, D.C.

There being no objection, **HR 140** was adopted.

Representative Adkins moved that **HB 187** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Adkins moved that the posting requirement be waived on **HB 509, 187, 380, 461, 376, 435,** and **514**. Agreed.

Representative Rollins moved the adoption of the following **HR 55**:

HR 55, A RESOLUTION adjourning the House of Representatives in memory and honor of Thomas Taylor Jr.

WHEREAS, Thomas Taylor Jr. was born on May 28, 1928, in Corbin Kentucky, the son of the late Thomas and Josephine Davis Taylor; and

WHEREAS, Mr. Taylor served his country with distinction in the United States Army before working to better his community of Versailles as a volunteer firefighter, as a teller at the Woodford Bank and Trust Co., and as a manager at Kroger;

and

WHEREAS, Mr. Taylor was a dedicated member of New Hope Baptist Church, and later, of Wayside Baptist Church; and

WHEREAS, Mr. Taylor was a devoted husband to the late Dorsey Whitus Taylor, who helped him rear a loving family, and later in life married his second wife, Julia Taylor; and

WHEREAS, Mr. Taylor departed this life on January 4, 2007, leaving behind a grieving daughter, Donna Traugott; two grandsons, Michael Traugott and Brian Traugott; two great-grandsons, Zachary Traugott and Kaiden Traugott; and an entire community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Thomas Taylor Jr. and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Thomas Taylor Jr.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Donna Traugott, 120 Woodford Street, Versailles, Kentucky 40383.

There being no objection, **HR 55** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 523, by Representatives Bell, Thompson, and Cherry: AN ACT relating to collateral on investments of public funds.

HB 524, by Representative Rollins: AN ACT relating to motor carriers.

HB 525, by Representative Riner: AN ACT relating to communicable disease precaution.

HB 526, by Representative Crenshaw: AN ACT relating to fees.

HB 527, by Representative Siler: AN ACT relating to cigarette tax.

HB 528, by Representative Jenkins: AN ACT relating to sexual offenses.

HB 529, by Representative Gooch: AN ACT relating to late payments on loans or extensions of credit.

HB 530, by Representative Keene: AN ACT relating to economic development.

HB 531, by Representative C. Belcher: AN ACT relating to sex offenders.

HB 532, by Representative C. Belcher: AN ACT relating to elder care income tax credits.

HB 533, by Representative Webb: AN ACT relating to the practice of pharmacy.

HB 534, by Representative Webb: AN ACT relating to the financing of local parks.

HB 535, by Representative Wayne: AN ACT relating to retirement.

HB 536, by Representatives Jenkins, Brinkman, Clark, Owens, Meeks, Miller, Wayne, Horlander, Crimm, Burch, Weston, Riggs, Greer, Riner, DeWeese, Firkins, Osborne, and L. Belcher: AN ACT relating to economic development, making an appropriation therefor and declaring an emergency.

HB 537, by Representative Spencer: AN ACT relating to the East Kentucky Center for Science, Mathematics and Technology Corporation.

HCR 151, by Representatives Graham and DeWeese: A CONCURRENT RESOLUTION creating the Vest-Lindsay House Preservation Task Force.

HR 152, by Representative Webb: A RESOLUTION urging the Office of Career and Technical Education, Department of Workforce Investment in the Education Cabinet to fully pay all certified or equivalent employees an annual increment for the 2006-2008 budget period as required by KRS 151B.0351(12).

HR 150, by Representative Sims: A RESOLUTION urging the Department of Fish and Wildlife Resources to extend modern gun deer seasons by up to two weeks.

HR 153, by Representatives Stacy and Adkins: A RESOLUTION adjourning the House of Representatives in honor of Alice Weaver, Kentucky's 2007 Junior Miss.

HB 538, by Representatives Palumbo and Weston: AN ACT relating to retirement.

Motions, Petitions, and Communications (Continued)

Representative C. Belcher moved that **HB 532** be withdrawn. Agreed.

Representative Adkins moved that the rules be suspended and that **HB 287** be reassigned to the Committee on Seniors, Military Affairs and Public Safety. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 35, 255, 260, 401, 410, 428, 443, HCR 79**

Appropriations and Revenue: **HB 23, 327, 339, 349, 393, 402, 419, 500**

Education: **HB 461, 380**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 387**

Licensing and Occupations: **HB 490, HCR 9, HB 340**

Local Government: **HB 307**

Seniors, Military Affairs and Public Safety: **HB 106**

Transportation: **HB 509**

Report of Committees

The Committee on Transportation reported **SJR 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 16, A JOINT RESOLUTION naming Interstate 65 in Jefferson County in honor and memory of Dr. Martin Luther King, Jr.

We pause to honor the memory of one of the greatest
humanitarians of this century, Dr. Martin Luther King, Jr.

WHEREAS, born on Tuesday, January 15, 1929, at his family's home in Atlanta, Georgia, Martin Luther King, Jr., was the second child but first son born to the Reverend Martin Luther King, Sr., and Alberta Williams King; and

WHEREAS, a brilliant child, Dr. Martin Luther King, Jr., skipped both the ninth and twelfth grades, and due to his high scores on college entrance examinations, he entered Morehouse College at the age of fifteen without formally graduating from high school; and

WHEREAS, graduating from Morehouse College in 1948 with a Bachelor of Arts degree in Sociology, Dr. Martin Luther King, Jr., earned a Bachelor of Divinity degree from Crozer Theological Seminary in Pennsylvania in 1951, while also taking classes at the University of Pennsylvania; and

WHEREAS, in the fall of 1951 Dr. Martin Luther King, Jr., began doctoral studies in Systematic Theology at Boston University and he was awarded his Ph.D. degree in 1955, all the while studying at Harvard University; and

WHEREAS, on June 18, 1953, Dr. Martin Luther King, Jr., married his soul mate Coretta Scott; and

WHEREAS, between November 17, 1955, and March 28, 1963, Dr. and Mrs. Martin Luther King, Jr., became the proud parents of four children, Yolanda Denise, Martin Luther III, Dexter Scott, and Bernice Albertine; and

WHEREAS, Dr. Martin Luther King, Jr., actually entered the ministry and was ordained in February 1948 at the age of nineteen at the Ebenezer Baptist Church in his hometown of Atlanta, Georgia; and

WHEREAS, upon graduation from Boston University, Dr. Martin Luther King, Jr., was called to be the Pastor of the Dexter Avenue Baptist Church in Montgomery, Alabama; and

WHEREAS, while shepherding the flock of Dexter Avenue Baptist Church, Dr. Martin Luther King, Jr., was thrust into the firestorm of hatred that existed throughout America, and which was especially violent in the southern states, by being one of the pivotal figures who started what became known throughout the world as the "Civil Rights Movement" when he was elected

President of the Montgomery, Alabama, Improvement Association; and

WHEREAS, Dr. Martin Luther King, Jr., spearheaded the Montgomery Improvement Association's famous boycott of the city's bus system, a boycott that lasted 381 days at great personal sacrifice, hardship, and persecution to the many citizens who stood behind Dr. King's dream of equality for all men and women, regardless of the color of their skin or their station in life; and

WHEREAS, the Montgomery bus boycott resulted in judicial systems across the nation beginning to strike down segregationist legislation as unconstitutional, and it also vaulted the civil rights movement, and Dr. Martin Luther King, Jr., into the forefront of American politics and social debate; and

WHEREAS, in 1959 Dr. Martin Luther King, Jr., resigned as pastor of Dexter Avenue Baptist Church to return to Atlanta to spearhead the civil rights work of the Southern Christian Leadership Conference; and

WHEREAS, on December 10, 1964, Dr. Martin Luther King, Jr., received the most prestigious award bestowed by the international community when at the age of 35 he was awarded the Nobel Peace Prize; and

WHEREAS, Dr. Martin Luther King, Jr., was the youngest man, second American, and only the third black man to be awarded the Nobel Peace Prize; and

WHEREAS, a cowardly assassin's bullet ended Dr. Martin Luther King, Jr.'s life on April 4, 1968, while he was in Memphis, Tennessee, to help lead sanitation workers in a protest against low wages and intolerable working conditions; however, the bullet that robbed Dr. King of his life could never silence his message of love, faith, truth, peace, and brotherhood for all the people of the earth; and

WHEREAS, Dr. Martin Luther King, Jr., remains one of the most recognized individuals of this century, and during his brief life, in addition to the 1964 Nobel Peace Prize, he received the following awards: in 1957 he was selected as one of the ten most outstanding personalities of the year by Time Magazine, was listed in Who's Who in America, received the National Association for the Advancement of Colored People's Spingarn Medal, and received the Russwurm Award from the National Newspaper Publishers; in 1958 he received the Second Annual Achievement Award from the Guardian Association of the New York Police Department; in 1959 he was selected as one of the sixteen world leaders who contributed most to the advancement of freedom during 1959 by Ling Magazine of New Delhi, India; in 1963 Dr. King was named Time Magazine's "Man of the Year," and was named "American of the Decade," by the Laundry, Dry Cleaning, and Die Workers International Union; in 1964 in addition to the Nobel Peace Prize, Dr. King received the John Dewey Award from the United Federation of Teachers and the John F. Kennedy Award from the Catholic Interracial Council of Chicago; in 1968 he was presented posthumously the Marcus Garvey Prize for Human Rights by the Jamaican Government and the Rosa L. Parks award by the Southern Christian Leadership Conference; and he received the Aims Field-Wolf Award for his book *Stride Toward Freedom*; and

WHEREAS, recognized for his work throughout the world, Dr. Martin Luther King, Jr., was bestowed the following honorary degrees: Doctor of Humane Letters, Morehouse College; Doctor of Laws, Howard University; Doctor of Divinity, Chicago Theological Seminary; Doctor of Laws, Morgan State University; Doctor of Humanities, Central State University; Doctor of Divinity, Boston University; Doctor of Laws, Lincoln University; Doctor of Laws, University of Bridgeport; Doctor of Civil Laws, Bard College; Doctor of Letters, Keuka College; Doctor of Divinity, Wesleyan College; Doctor of Laws, Jewish Theological Seminary; Doctor of Laws, Yale University; Doctor of Divinity, Springfield College; Doctor of Laws, Hofstra University; Doctor of Humane Letters, Oberlin College; Doctor of Social Science, Amsterdam Free University; Doctor of Divinity, St. Peter's College; Doctor of Civil Law, University of Newcastle Upon Tyne; and Doctor of Laws, Grinnell College; and

WHEREAS, in addition to raising his family, ministering to his church family, working with the Southern Christian Leadership Conference, and his many national and international activities for peace and justice, Dr. Martin Luther King, Jr., wrote six books and numerous articles; and

WHEREAS, Dr. Martin Luther King Jr.'s skills as an orator helped raise the consciousness of not only this nation, but the entire world, during several of his most famous speeches including his "I have a dream" speech in 1963 during the civil rights movement March on Washington, his 1964 acceptance speech of the Nobel Peace Prize, and his final sermon "I have been to the Mountaintop" given the day before his death in Memphis; and

WHEREAS, Dr. Martin Luther King, Jr., is entombed on Freedom Plaza in Atlanta, Georgia -- a 23-acre site that was listed as a National Historic Landmark on May 5, 1977, and made a National Historic Site on October 10, 1980; and

WHEREAS, on January 18, 1986, following passage of Public Law 98-144, America paid final homage to this great American by proclaiming the third Monday in January of each year a public holiday in honor of the birthday of Dr. Martin Luther King, Jr.;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, hail Dr. Martin Luther King, Jr., for his sacrifices and devotion to equality and justice for every citizen of every nation.

Section 2. The Commonwealth of Kentucky wants to add to the many accolades Dr. Martin Luther King, Jr., has received by naming one of the busiest highways in the state in his memory.

Section 3. The Transportation Cabinet is directed to name Interstate 65 in Jefferson County the "Dr. Martin Luther King, Jr., Expressway."

Section 4. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at the Kentucky/Indiana state line, the Jefferson County/Bullitt County line, and at intervals in between that read "Dr. Martin Luther King, Jr., Expressway."

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 225**, **HB 287**, and **HB 390** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 225, AN ACT relating to wounded or disabled veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Kentucky Wounded or Disabled Veterans Program is hereby created in the Kentucky Department of Veterans' Affairs and shall be attached to the Office of the Commissioner for administrative purposes.

(b) The program shall assist wounded or disabled veterans who served in the United States Armed Forces and were discharged under conditions other than dishonorable. The program shall:

1. Ease the transition from active service for these wounded or disabled veterans; and

2. Ensure that these wounded or disabled veterans receive the federal, state, and private benefits to which they are entitled as wounded or disabled veterans.

(c) The commissioner shall designate a Wounded or Disabled Veterans Coordinator for the Commonwealth.

(2) The Kentucky Wounded or Disabled Veterans Program shall:

(a) Perform outreach to improve wounded or disabled veterans' awareness of eligibility for federal, state, and private wounded or disabled veterans' services and benefits;

(b) Assess the needs of wounded or disabled veterans with respect to benefits and services;

(c) Review programs, research projects, and other initiatives that are or may be:

1. Designed to address or meet the needs of Kentucky's wounded or disabled veterans; or

2. Unresponsive or insensitive to the needs of these wounded or disabled veterans;

(d) Recommend changes, revisions, and new initiatives to the commissioner to:

1. Address deficiencies identified through the review established in paragraph (c) of this subsection; and

2. Improve benefits and services; and

(e) Incorporate wounded or disabled veterans' issues in strategic planning concerning benefits and services.

(3) The primary components of the program shall be:

(a) Advocacy and Public Awareness. The program shall advocate for wounded or disabled veterans and shall work to increase public awareness about the needs of wounded or disabled veterans. The program shall advocate legislation and policies on the local, state, and national levels to address these issues;

(b) Collaboration. The program shall collaborate with federal, state, and private agencies that provide services to wounded or disabled veterans;

(c) Research and Information Dissemination. The program shall monitor and research issues relating to wounded or disabled veterans and disseminate information and opportunities throughout its network;

(d) Education. The program, through conferences, seminars, and training workshops with federal, state, and private agencies, shall provide guidance and direction to wounded or disabled veterans applying for grants, benefits, or services;

(e) Honor and Recognition. The program shall promote events and activities that recognize and honor wounded or disabled veterans; and

(f) Facilities. The program, through grants and other sources of funding, shall provide facilities as appropriate in support of the program.

(4) The Kentucky Department of Veterans' Affairs shall enter into data-sharing agreements with the United States Department of Veterans Affairs and the Department of Defense to obtain timely information with regard to the address and medical status of a Kentucky wounded or disabled veteran.

(5) With the consent of a wounded or disabled veteran, the Wounded or Disabled Veterans Coordinator for the Commonwealth, or his or her designee, may obtain personal information concerning that veteran for the sole purpose of implementing the program. Under the provisions of KRS 61.878, the information shall not be subject to public disclosure.

(6) The Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to carry out the provisions of this section.

(7) The program is authorized to accept and expend:

(a) Moneys that may be appropriated by the General Assembly; and

(b) Other moneys received from any other source, including donations and grants.

HB 287, AN ACT relating to the Uniform Emergency Volunteer Health Practitioners Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 39G IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

(1) "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and that:

(a) Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the Kentucky Department of Military Affairs; or

(b) Regularly plans and conducts its activities in coordination with an agency of the federal government or the Kentucky Department of Military Affairs;

(2) "Emergency" has the same meaning as used in KRS 39A.020;

(3) "Emergency declaration" has the same meaning as "declared emergency" as used in KRS 39A.020;

(4) "Emergency Management Assistance Compact" means the interstate compact established under KRS 39A.950;

(5) "Health facility" has the same meaning as used in KRS 216B.015 or a facility licensed to provide veterinary services;

(6) "Health practitioner" means an individual licensed under the laws of this or another state to provide health or veterinary services;

(7) "Health services" means the provision of treatment, care, advice or guidance, other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(a) The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

1. Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care;

2. Counseling, assessment, procedures, or other services;

(b) Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(c) Funeral, cremation, cemetery, or other mortuary services;

(8) "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency;

(9) "License" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity;

(10) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(11) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority;

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(13) "Veterinary services" means the provision of treatment, care, advice or guidance, other services, or supplies related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:

(a) Diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(b) Use of a procedure for reproductive management; and

(c) Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans; and

(14) "Voluntary health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed

by a disaster relief organization providing services in this state while an emergency declaration is in effect.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act shall apply to volunteer health practitioners registered with a registration system that complies with Section 4 of this Act and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) While an emergency declaration is in effect, the Department of Military Affairs may limit, restrict, or otherwise regulate:

(a) The duration of practice by volunteer health practitioners;

(b) The geographical areas in which volunteer health practitioners may practice;

(c) The types of volunteer health practitioners who may practice; and

(d) Any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(2) An order issued pursuant to subsection (1) of this section may take effect immediately, without prior notice or comment.

(3) A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

(a) Consult and coordinate its activities with the Department of Military Affairs to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(b) Comply with any laws relating to the management of emergency health or veterinary services, in addition to Sections 1 to 11 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) To quality as a volunteer health practitioner registration system, a system shall:

(a) Accept applications for the registration of volunteer health practitioners before or during an emergency;

(b) Include information about the licensure and good standing of health practitioners which is accessible by authorized persons;

(c) Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under Sections 1 to 11 of this Act; and

(d) Meet one (1) of the following conditions:

1. Be an emergency system for advanced registration of volunteer health practitioners established by a state and funded through the Health Resources Services Administration under Section 247d-7b3191 of Title 42 of the United States Code;

2. Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under Section 300hh of Title 42 of the United States Code;

3. Be operated by a:

a. Disaster relief organization;

b. Licensing board;

c. National or regional association of licensing boards of health practitioners;

d. Health facility that provides comprehensive inpatient and outpatient health-care services, including a tertiary care and teaching hospital; or

e. Governmental entity; or

4. Be designated by the Kentucky Department of Military Affairs as a registration system for purposes of Sections 1 to 11 of this Act.

(2) While an emergency declaration is in effect, representatives of the Kentucky Department of Military Affairs, representatives of the Cabinet for Health and Family Services, or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with subsection (1) of this section. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

(3) Upon request of a person in this state authorized under subsection (2) of this section, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(4) A host entity shall not be required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

SECTION 5. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system that complies with Section 4 of this Act and licensed and in good standing in the state upon which the practitioner's registration is based, may practice in this state to the extent authorized by Sections 1 to 11 of this Act as if the practitioner were licensed in this state.

(2) A volunteer health practitioner qualified under subsection (1) of this section shall not entitled to the protections of Sections 1 to 11 of this Act if the practitioner is licensed in more than one (1) state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction.

SECTION 6. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility; and

(b) "Privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(2) Sections 1 to 11 of this Act shall not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

SECTION 7. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) Subject to subsections (2) and (3) of this section, a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

(2) Except as otherwise provided in subsection (3) of this section, Sections 1 to 11 of this Act shall not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in this state would be permitted to provide the services.

(3) The Adjutant General or his or her designee, in consultation with the Commission of the Department for Public Health, may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to Sections 1 to 11 of this Act. An order under this subsection may take effect immediately, without prior notice or comment.

(4) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide under Sections 1 to 11 of this Act.

(5) A volunteer health practitioner shall not be sanctioned for engaging in unauthorized practice unless the practitioner has reason to know of any limitation, modification, or restriction under this section or that a similarly licensed practitioner in this state would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide a service if:

(a) The practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service; or

(b) From all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service.

(6) In addition to the authority granted by law of this state other than Sections 1 to 11 of this Act to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this state:

(a) May impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency;

(b) May impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency; and

(c) Shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

(7) In determining whether to impose administrative sanctions under subsection (6) of this section, a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

SECTION 8. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 11 of this Act shall not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than Sections 1 to 11 of this Act. Except as otherwise provided in subsection (2) of this section, shall not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

(2) The Kentucky Department of Military Affairs, pursuant to the Emergency Management Assistance Compact, may

incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state, a political subdivision of this state, or a municipality or other local government within this state.

SECTION 9. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Military Affairs may promulgate administrative regulations to implement Sections 1 to 11 of this Act. In doing so, the Kentucky Department of Military Affairs shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact and shall also consult with and consider administrative regulations promulgated by similarly empowered agencies in other states to promote uniformity of application of Sections 1 to 11 of this Act and make the emergency response systems in the various states reasonably compatible.

SECTION 10. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act may be cited as the Uniform Emergency Volunteer Health Practitioners Act.

Section 12. KRS 311.560 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States Veterans Administration, and other agencies of the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;

(b) 1. Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter; or

2. Persons who, being current participants in a medical residency program outside of Kentucky and lawfully licensed to practice medicine or osteopathy in the states of their medical residency programs, who participate in a temporary residency rotation of no more than sixty (60) days at a hospital in this Commonwealth. All persons who participate in a temporary residency rotation under this paragraph shall register with the board at no cost, on forms provided by the board, and shall be subject to the jurisdiction of the board for so long as they participate in the residency rotation. Persons who wish to participate in a second or subsequent temporary residency rotation under this paragraph shall seek advance approval of the board;

(c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. No first-year postgraduate trainee shall violate the provisions of KRS 311.595 or KRS 311.597, and any first-year postgraduate trainee who is released or discharged from a training program for a reason that falls within KRS 311.595 or 311.597 shall be reported by the program director to the board. A residency physician who participates in a temporary residency rotation under paragraph (b) of this subsection shall not be required to obtain a license under KRS 311.530 to 311.620;[~~ or~~]

(d) Physicians employed by a sports entity visiting Kentucky for a specific sporting event when the physician holds an active medical or osteopathic license in another state and limits the practice of medicine in Kentucky to medical treatment of the members, coaches, and staff of the sports entity that employs the physician***; or***

(e) Volunteer health practitioners providing services under Sections 1 to 11 of this Act.

Section 13. KRS 313.030 is amended to read as follows:

[~~(1)~~]Nothing in this chapter shall ***prohibit:***[~~prevent~~]

(1) (a) Students from performing dental operations under the supervision of competent instructors within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize the students of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. No fee shall be accepted by the student beyond the expenses provided by the stipend.

(b)[~~(2)~~] Students shall be at all times under the direct supervision of a dentist licensed in this state, who is an instructor of the institution at which they are studying.

(2) Volunteer health practitioners providing services under Sections 1 to 11 of this Act.

Section 14. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit the following:

(a) The practice of any currently licensed nurse of another state practicing in this state during an emergency occurring in this state or any other state declared by the President of the United States or the Governor of Kentucky. The duration and conditions of the practice shall be determined by the board;

(b) The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing;

(c) The practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties;[~~or~~]

(d) The practice of any currently licensed nurse of another state who is in this state on a nonroutine basis to:

1. Provide care to a patient being transported into, out of, or through this state;
2. Provide nursing consulting services; or
3. Present a continuing nursing education program***; or***

(e) Notwithstanding the provisions of paragraph (a) of this subsection, the practice of volunteer health practitioners under Sections 1 to 11 of this Act.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

Section 15. KRS 314A.105 is amended to read as follows:

(1) This chapter does not prohibit:

(a) The performance of respiratory care which is an integral part of the program of study by students enrolled in an accredited program;

(b) Self-care by the patient nor the gratuitous care by a friend or member of the family who does not represent or hold himself out to be a respiratory care practitioner;

(c) Respiratory care services provided in the case of an emergency;

(d) Persons from engaging in cardiopulmonary research;[~~and~~]

(e) The performance of respiratory care by trained paramedical personnel***; and***

(f) Volunteer health practitioners providing services under Sections 1 to 11 of this Act.

(2) Nothing in this section shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their license.

Section 16. KRS 315.020 is amended to read as follows:

(1) No owner of a pharmacy who is not a pharmacist shall fail to place a pharmacist in charge of his pharmacy or shall permit any person to compound or dispense prescription drugs, medicines, or pharmaceuticals in his place of business except in the presence and under the immediate supervision of a pharmacist.

(2) No manufacturer of pharmaceuticals who is not a pharmacist shall fail to place a pharmacist in charge of his place of business or shall permit any person to compound prescription drugs, medicines, or pharmaceuticals in his place of business, except as provided by the board through the promulgation of administrative regulations pursuant to KRS Chapter 13A.

(3) Except as provided in subsection (4) of this section, no person shall engage in the practice of pharmacy unless licensed to practice under the provisions of KRS Chapter 315.

(4) The provisions of subsection (3) of this section shall not apply to:

(a) Pharmacist interns performing professional practice activities under the immediate supervision of a licensed pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;

(b) Pharmacist interns and pharmacy technicians performing specifically identified pharmacy practice activities while under the supervision of a pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;[~~ or~~]

(c) Other licensed health care professionals practicing within the statutory scope of their professional practices***; or***

(d) Volunteer health practitioners providing services under Sections 1 to 11 of this Act.

Section 17. KRS 319.005 is amended to read as follows:

(1) No person shall engage in the practice of psychology as defined in KRS 319.010 or hold himself or herself out by any title or description of services which incorporates the words "psychological," "psychologist," or "psychology", unless licensed by the board. No person shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he or she is licensed, unless he or she holds a valid license issued by the board.

(2) The provisions of subsection (1) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 11 of this Act.

Section 18. KRS 327.020 is amended to read as follows:

(1) No person shall practice or hold himself out as being able to practice physical therapy in any manner whatsoever unless he meets the educational requirements of this chapter, is licensed in accordance with the provisions of this chapter, he is in good standing with the board and his license is not suspended or revoked. Provided, however, that nothing contained in this chapter shall prohibit any person licensed in this state under any other law from engaging in the practice for which such person is duly licensed. Nothing contained in this chapter shall prohibit routine and restorative services performed by personnel employed by hospitals, physicians or licensed health care facilities as relates to physical therapists. This chapter does not preclude certified occupational therapists, respiratory technicians or respiratory therapists from practicing as defined in the United States Department of Health, Education and Welfare, Public Health Service, Health Resources Administration, Bureau of Health Manpower, DHEW publication No. (HRA) 80-28, "A Report On Allied Health Personnel." Provided further that persons regularly employed by the United States shall be exempted from the provisions of this chapter while engaged in such employment.

(2) A licensed physical therapist may hold himself out as a "physical therapist" or "licensed physical therapist" and may use the abbreviations "P.T." or "L.P.T." as a part of or immediately following his name, in connection with his profession.

(3) It shall be unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with his or its name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T." or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless such physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter.

(4) The provisions of subsection (1) and (3) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 11 of this Act.

Section 19. KRS 335.010 is amended to read as follows:

(1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.

(2) The purpose of KRS 335.010 to 335.160 and KRS 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training, and experience for those who seek to engage in the practice of social work.

(3) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the Kentucky Board of Education. Nor shall anything in KRS 335.010 to 335.160 and KRS 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the Kentucky Board of Education for the position for which they have been employed.

(4) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government, or applicants for such employment to be licensed.

(5) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by church-related or church-operated or affiliated agencies, children's homes, neighborhood centers, or other philanthropic and nonprofit field service offices to be licensed. The provisions of KRS 335.010 to 335.160 and KRS 335.990 shall not be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, and experience of those engaged as employees of such entities in the practice of social work or applied social counseling.

(6) Nothing contained in KRS 335.010 to 335.160 and 335.990 shall prohibit volunteer health practitioners from providing services under Sections 1 to 11 of this Act.

Section 20. KRS 321.200 is amended to read as follows:

(1) No provision of this chapter shall be construed to prohibit any of the following:

(a) Any persons from gratuitously treating animals in cases of emergency if they do not represent themselves to be veterinarians or use any title or degree pertaining to veterinary practice;

(b) The owner of any animal or animals and the owner's full-time, or part-time, regular employees from caring for and treating, including administering drugs to, any animals belonging to the owner. Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this provision;

(c) Any person from castrating food animals and dehorning cattle, as long as any drugs or medications are obtained and used in accordance with applicable federal statutes and regulations governing controlled and legend drugs.

(d) Any student enrolled in any approved veterinary school or college from working under the direct supervision of a veterinarian who is duly licensed under the laws of this Commonwealth and whose compensation is paid solely by the licensed veterinarian;

(e) Nonlicensed graduate veterinarians in the United States Armed Services or employees of the Animal and Plant Health Inspection Service of the United States Department of Agriculture or the Kentucky Department of Agriculture, Division of Animal Health while engaged in the performance of their official duties, or other lawfully qualified veterinarians residing in other states, from meeting licensed veterinarians of this Commonwealth in consultation;

(f) A trainer, sales agent, or herdsman from caring for animals, provided there is a veterinary-client-patient relationship, as defined in KRS 321.185;

(g) A university faculty member from teaching veterinary science or related courses, or a faculty member or staff member from engaging in veterinary research, including drug and drug testing research, provided that research is conducted in accordance with applicable federal statutes and regulations governing controlled and legend drugs;[~~ or~~]

(h) Any person who holds a postgraduate degree in reproductive physiology or a related field, and who has performed embryo transfers in Kentucky during the five (5) years immediately preceding July 14, 1992, from performing embryo transfers*; or*

(i) Volunteer health practitioners providing services under Sections 1 to 11 of this Act.

(2) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist.

Section 21. KRS 321.441 is amended to read as follows:

(1) An applicant for registration as a veterinary technologist shall be a graduate of an accredited program of veterinary technology approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technician shall possess an associate degree related to veterinary sciences, or its equivalent, approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technologist or veterinary technician shall pass a written and practical examination as determined by the board to assess the qualifications and fitness of an applicant to engage in the practice.

(2) Registration issued to a veterinary technologist or veterinary technician shall not be active until the veterinary technologist or veterinary technician is employed and is under the direct supervision of a veterinarian licensed in this Commonwealth. A veterinary technologist or veterinary technician's registration is considered to be inactive until registration is activated by returning a renewal application signed by the supervising veterinarian and the application is approved by the board. Each veterinary technologist or veterinary technician registered by the board shall pay an annual fee as prescribed by the board. Each veterinary technologist or veterinary technician registered by the board shall attend annual continuing education hours as required by the board to renew the registration. Failure to renew shall result in the termination of registration. If a hearing is requested upon the rejection of an application, or upon the termination of registration, a hearing shall be conducted in accordance with the provision of KRS 321.360.

(3) The services of a veterinary technologist or veterinary technician shall be limited to the performance of duties under the direct supervision of a licensed veterinarian except for the routine administration of drugs, vaccines, parasite control agents, and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists. A veterinary technologist or veterinary technician shall receive no fee or compensation for services other than salary or compensation paid by the establishment by which the veterinary technologist or veterinary technician, is employed. A veterinary technologist or veterinary technician shall not participate in the operation of a branch office, clinic, or allied establishment unless a licensed veterinarian is on the premises. A veterinary technologist or veterinary technician shall not diagnose, prescribe medication or treatment, or perform surgical procedures other than castrating and dehorning of food animals. A veterinary technologist or veterinary technician may assist a veterinarian in all duties of veterinary medicine and surgery.

(4) A veterinarian shall utilize the services of a veterinary technologist or veterinary technician in accordance with the terms and provisions of this chapter. Unauthorized utilization of veterinary technologist or veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.351.

(5) Nothing in this section shall prohibit volunteer health practitioners from providing services under Sections 1 to 11 of

this Act.

HB 390, AN ACT relating to special Gold Star Mothers license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.162 is amended to read as follows:

(1) As used in this section and in KRS 186.043, 186.164, 186.166, and 186.174:

(a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

(b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

(c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

(a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:

1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).
2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).

(b) Former prisoners of war and survivors of Pearl Harbor:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).
2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(c) Members of the Kentucky National Guard:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).
2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(d) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: $3 ($0 SF/$3 CF/$0 EF).
2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(f) Disabled license plates:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(g) Historic vehicles:

1. Initial Fee for two plates: $53 ($50 SF/$3 CF/$0 EF).
2. Renewal Fee: Do not renew annually.

(h) Members of Congress:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(i) Volunteer firefighters:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(j) Emergency management:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(k) Fraternal Order of Police:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(l) Law Enforcement Memorial:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(m) Personalized plates:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $40 ($37 SF/$3 CF/$0 EF).

(n) Street rods:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(o) Nature plates:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

(p) Amateur radio:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(q) Kentucky General Assembly:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(r) Kentucky Court of Justice:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(s) Masons:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(t) Collegiate plates:

1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

(u) Independent Colleges:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(v) Child Victims:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the child victims' trust fund established under KRS 41.400).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(w) Kentucky Horse Council:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Horse Council).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the Kentucky Horse Council).

(x) Ducks Unlimited:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

(y) Spay neuter:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the animal control and care fund established under KRS 258.119).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the animal control and care fund established under KRS 258.119).

(z) Gold Star Mothers:

1. Initial Fee: ***$0***[~~$15~~] ***$0***[~~($12~~] SF/***$0***[~~$3~~] CF/ $0 EF).

2. Renewal Fee: ***$0***[~~$15~~] ***$0***[~~($12~~] SF/***$0***[~~$3~~] CF/ $0 EF).

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar ($25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars ($20) and the county clerk receiving five dollars ($5).

(4) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).

Section 2. KRS 186.041 is amended to read as follows:

(1) Each initial and renewal application by a person who meets the criteria of paragraph (a) of this section and each initial application by a person who meets the criteria of paragraphs (b) and (c) of this section for a special military license plate shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;

2. Received an early release due to injuries or other medical condition, or at the convenience of the service;

3. Received a hardship discharge;

4. Was separated or retired due to a disability; or

5. Was determined to have a service-connected disability incurred during the enlistment.

(2) The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. A disabled veterans license plate shall expire on July 31.

(3) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of

Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(4) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate by submitting written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with KRS 186.164(7).

(5) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate and shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

(6) A person who is eligible to receive a Gold Star Mothers license plate under KRS 186.164(15)(a) may receive up to two (2) Gold Star Mothers license plates annually for vehicles she owns or leases.

Floor Amendments

Floor Amendment No. 1 to **HB 252**, by Representative Brinkman:

HB 252, Beginning on page 1, line 3 and continuing to page 3 line 14, delete the content in its entirety and insert the following in lieu thereof:

"***(1) The Governor and the secretary of the Cabinet for Health and Family Services shall coordinate a request to the United States Food and Drug Administration to report to the Governor, the secretary of the Cabinet for Health and Family Services, and the Legislative Research Commission whether drug importation from licensed foreign pharmacies, distributors, and wholesalers by licensed pharmacies, distributors, and wholesalers poses no additional risk to the public's health and safety and would result in a significant reduction in the cost of prescription drugs.***

(2) The secretary of the Cabinet for Health and Family Services shall be prohibited from designing a prescription drug program to facilitate the importation of prescription drugs from licensed foreign pharmacies, distributors, and wholesalers by pharmacies, distributors, and wholesalers licensed in Kentucky for resale to Kentucky residents, unless the United States Food and Drug Administration certifies to the Governor, the secretary of the Cabinet for Health and Family Services, and the Legislative Research Commission that drug importation from foreign pharmacies, distributors, and wholesalers by licensed pharmacies, distributors, and wholesalers poses no additional risk to the public's health and safety and would result in a significant reduction in the cost of prescription drugs.".

Floor Amendment No. 2 to **HB 219**, by Representative Brinkman:

HB 219, On page 2, between lines 1 and 2, by inserting the following:

"***(5) Notwithstanding KRS 337.425 to 337.433, an employer and employee may agree to resolve disputes arising under this section through binding arbitration.***".

Floor Amendment No. 1 to **HB 219**, by Representative DeCesare:

HB 219, On page 1, line 6, after the word "sex," insert "***race, or national origin,***";

On page 1, lines 7 and 8, bracket and strike through "of the opposite sex"; and

On page 1, line 11, after the word "sex," insert the ***race, or national origin,***".

Floor Amendment No. 5 to **HB 219**, by Representative Montell:

HB 219, On page 1, line 3, after "***effort,***", insert "***experience, education,***".

Floor Amendment No. 3 to **HB 219**, by Representative Brinkman:

HB 219, On page 1, line 4, before the "." by adding "***, to be determined solely by the employer*** ".

Floor Amendment No. 4 to **HB 219**, by Representative Brinkman:

HB 219, On page 1, line 4, before the "." by adding "***, to be determined solely by the employer*** "; and

On page 2, between lines 1 and 2, insert the following new subsection:

"***(5) There is a rebuttable presumption that a determination made by an employer under subsection (1)(a) of this section is correct and meets the requirements of subsection (1)(b) of this section.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 305**, by Representative Montell:

HB 305, On page 2, after line 6, by inserting the following:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;

(b) "Office" means the Office of Workplace Standards in the Department of Labor;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the executive director showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; ~~[or]~~

12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care***; or***

13. Any individual who works twenty-five (25) hours or less in a workweek.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid

to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.".

Floor Amendment No. 1 to the Committee Substitute to **HB 278**, by Representative Jenkins:

HB 278, On page 5, between lines 26 and 27 by inserting the following:

"***(8) The implementation and substance of the New York Fire Safety Standards for Cigarettes shall be the persuasive authority in the implementation of Sections 1 to 8 of this Act.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 140**, by Representative Yonts:

HB 140, On page 1, line 6, after "***knowingly***" insert "***use their position of authority or trust to***".

Floor Amendment No. 2 to the Committee Substitute to **HB 345**, by Representative Floyd:

HB 345, On page 1, line 25, after "child" insert "***should***" and bracket and strike through the word "shall"; and

On page 2, line 4, after "be" insert "***added***" and bracket and strike through the word "required".

Floor Amendment No. 2 to **HB 305**, by Representative Farmer:

HB 305, On page 2, after line 13, insert the following:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;

(b) "Office" means the Office of Workplace Standards in the Department of Labor;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer***;***[~~, but shall not include:~~

~~1. Any individual employed in agriculture;~~

~~2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;~~

~~3. Any individual employed by the United States;~~

~~4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;~~

~~5. Any individual classified and given a certificate by the executive director showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;~~

~~6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;~~

~~7. Any individual employed as a baby sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;~~

~~8. Any individual engaged in the delivery of newspapers to the consumer;~~

~~9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;~~

~~10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;~~

~~11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or~~

~~12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care.~~]

(b) [~~"Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;~~

~~(c)~~] "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(c)[~~(d)~~]"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(d)[~~(e)~~]"U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 3. KRS 337.020 is amended to read as follows:

Every employer doing business in this state shall, as often as semimonthly, pay to each of its employees all wages or salary earned to a day not more than eighteen (18) days prior to the date of that payment. Any employee who is absent at the time fixed for payment, or who, for any other reason, is not paid at that time, shall be paid thereafter at any time upon six (6) days' demand. No employer subject to this section shall, by any means, secure exemption from it. Every such employee shall have a right of action against any such employer for the full amount of his wages due on each regular pay day.~~[The provisions of this section do not apply to those individuals defined in KRS 337.010(2)(a)2.]~~".

Floor Amendment No. 3 to the Committee Substitute to **HB 305**, by Representative Farmer:

HB 305, On page 2, after line 6, insert the following:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;

(b) "Office" means the Office of Workplace Standards in the Department of Labor;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer;~~[, but shall not include:~~

~~1. Any individual employed in agriculture;~~

~~2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;~~

~~3. Any individual employed by the United States;~~

~~4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;~~

~~5. Any individual classified and given a certificate by the executive director showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;~~

~~6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;~~

~~7. Any individual employed as a baby sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;~~

~~8. Any individual engaged in the delivery of newspapers to the consumer;~~

~~9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those~~

~~emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;~~

~~10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;~~

~~11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or~~

~~12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care.~~]

(b) [~~"Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;~~

~~(c)~~] "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(c)[~~(d)~~]"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(d)[~~(e)~~]"U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 3. KRS 337.020 is amended to read as follows:

Every employer doing business in this state shall, as often as semimonthly, pay to each of its employees all wages or salary earned to a day not more than eighteen (18) days prior to the date of that payment. Any employee who is absent at the time fixed for payment, or who, for any other reason, is not paid at that time, shall be paid thereafter at any time upon six (6) days' demand. No employer subject to this section shall, by any means, secure exemption from it. Every such employee shall have a right of action against any such employer for the full amount of his wages due on each regular pay day.~~[The provisions of this section do not apply to those individuals defined in KRS 337.010(2)(a)2.]~~".

Floor Amendment No. 1 to the Committee Substitute to **HB 108**, by Representative Hoffman:

HB 108, On page 1, line 5, after the word "*Historic*" by inserting the word "*drylaid*", and

On page 1, line 7, before the word "*Mortared*" by inserting the word "*Historic*", and

On page 1, line 9, after the word "*Nonhistoric*" by inserting the word "*drylaid*", and

On page 1, line 18, after the word "*historic*" by inserting the word "*drylaid*", and

On page 1, line 19, after the word "*and*" by inserting the word "*historic*", and

On page 2, line 2, after the word "*Act*" and before the "*.*", by inserting "*and in no case shall the funds be used for executive agency administrative costs*", and

On page 2, line 8, after the word "*historic*" by inserting the word "*drylaid*", and

On page 2, line 8, before the word "*mortared*" by inserting the word "*historic*", and

On page 2, line 9, by placing a "*.*" after the first occurence of the word "*fences*" and deleting the rest of the text on that line, and

On page 2, after line 15 and before line 16, by inserting the following:

"*(3) No funds from the program established in this section shall be utilized for restoration projects which utilize stone removed, harvested, or taken from other historic stone structures located outside the legal boundaries of the property where the restoration project is located.*", and

On page 3, line 11, after the word "*historic*" by inserting "*drylaid and historic mortared*".

Floor Amendment No. 6 to the Committee Substitute to **HB 305**, by Representative DeCesare:

HB 305, On page 2, after line 6, insert the following:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;

(b) "Office" means the Office of Workplace Standards in the Department of Labor;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the executive director showing a status of learner,

apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
8. Any individual engaged in the delivery of newspapers to the consumer;
9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;
11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the

Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority. ***"Public works" shall not include the construction of court facilities.***

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.".

Floor Amendment No. 7 Title to **HB 305**, by Representative DeCesare:

HB 305, Amend the title to read: "AN ACT relating to wages and hours."

Floor Amendment No. 4 to **HB 305**, by Representative Farmer:

HB 305, On page 2, after line 13, by adding the following new subsection:

"***(5) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, it is the intent of the General Assembly to occupy the area relating to minimum hourly wage provisions applicable to employees in this Commonwealth. No city, county, urban-county, charter county, consolidated local government, unified local government, political subdivision, or other local unit of government of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation establishing a minimum hourly wage rate that is different or in conflict with this section. Any minimum hourly wage rate adopted by any city, county, urban-county, charter county, consolidated local government, unified local government, political subdivision, or other local unit of government of the Commonwealth prior to the effective date of this Act shall be null and void on the effective date of this Act.***".

Floor Amendment No. 5 to the Committee Substitute to **HB 305**, by Representative Farmer:

HB 305, On page 2, after line 6, by adding the following subsection:

"***(3) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, it is the intent of the General Assembly to occupy the area relating to minimum hourly wage provisions applicable to employees in this Commonwealth. No city, county, urban-county, charter county, consolidated local government, unified local government, political subdivision, or other local unit of government of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation establishing a minimum hourly wage rate that is different or in conflict with this section. Any minimum hourly wage rate adopted by any city, county, urban-county, charter county, consolidated local government, unified local government, political subdivision, or other local unit of government of the Commonwealth prior to the effective date of this Act shall be null and void on the effective date of this Act.***".

Floor Amendment No. 9 to **HB 305**, by Representative Farmer:

HB 305, On page 2, after line 13, insert the following:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;

(b) "Office" means the Office of Workplace Standards in the Department of Labor;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the executive director showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. ~~[Any individual engaged in the delivery of newspapers to the consumer;~~

~~9.]~~ Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

9.~~[10.]~~ Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

10.~~[11.]~~ Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or

11.~~[12.]~~ Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.".

Floor Amendment No. 8 to the Committee Substitute to **HB 305**, by Representative Farmer:

HB 305, On page 2, after line 6, insert the following:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;

(b) "Office" means the Office of Workplace Standards in the Department of Labor;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the executive director showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. [~~Any individual engaged in the delivery of newspapers to the consumer;~~

~~9.~~] Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

9.[~~10.~~] Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

10.[~~11.~~] Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or

11.[~~12.~~] Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.".

Floor Amendment No. 1 to the Committee Substitute to **HB 291**, by Representative Palumbo:

HB 291, On page 4, line 19 after "(b)" by inserting the following:'

"***An injury of the student received as a victim of or party to a crime, certified by an attending physician;***

(c)"; and

On page 4, line 22 by deleting "(c)" and inserting "***(d)***" in lieu thereof; and

On page 4, line 23 by deleting "(d)" and inserting "***(e)***" in lieu thereof.

Floor Amendment No. 1 to **HB 358**, by Representative Combs:

HB 358, On page 25, line 3, after "provided." delete the sentence "***"Child" also includes a person who committed, prior to his or her eighteenth (18th) birthday, a status offense, public offense, or is a youthful offender who is retained in the juvenile system past the age of eighteen (18) years by the juvenile session of the District Court for a purpose authorized by law***" and insert in lieu thereof "***For purposes of treatment, "Child" shall also mean any person who has attained the age of eighteen (18) years and has been adjudicated guilty of a public offense by a juvenile court and has been:***

(a) Probated or committed to the Department of Juvenile Justice as a public offender pursuant to KRS 635.060 or 635.090; or

(b) Committed as a public offender pursuant to KRS 635.060 or 635.090 and declared a juvenile sexual offender for treatment under KRS 635.515".

Floor Amendment No. 3 to the Committee Substitute to **HB 345**, by Representative Wuchner:

HB 345, On page 1, after the enacting clause, by inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) In concurrence with the Food and Drug Administration, the Centers for Disease Control and Prevention, the American Academy of Pediatrics, the American Medical Association, the Advisory Committee on Immunization Practices, the National Network for Immunization Information, and the American College of Pediatricians, who have not taken a position of formally requiring mandatory vaccination with the human papillomavirus vaccine for school attendance, the Kentucky Department for Public Health shall recommend that all female students enrolled in public and private middle schools, as defined in KRS 157.320, and their parents or guardians consider voluntary vaccination with the human papillomavirus vaccine after consultation with their health-care providers.

(2) The Department for Public Health shall develop a public awareness, education and prevention program on human papillomavirus and its vaccine that shall include but not be limited to:

(a) Enhanced health and abstinence education;

(b) Information on risk factors associated with human papillomavirus prevention and transmission;

(c) Education on the importance of clinical cancer screenings and pap tests;

(d) Clinical recommendations for human papillomavirus vaccine;

(e) Information on universal access to human papillomavirus vaccine; and

(f) Information on the most recent scientific and medical information on the prevention, diagnosis, treatment, and therapeutic decision making on human papillomavirus.

(3) The department may make available on its Internet Web site protocols, guidelines, and materials for the human papillomavirus program that increase the understanding of the disease among general and high-risk populations.

(4) The program may utilize education materials developed by health-related companies, community-based or national advocacy organizations, and the Centers for Disease Control and Prevention.

(5) The department shall report on the human papillomavirus public awareness, education, and prevention program to the Interim Joint Committee on Health and Welfare by December 1, 2007, and every six (6) months thereafter, or upon request of the committee."; and

Renumber subsequent sections accordingly; and

On page 2, line 1, remove the brackets and strikethroughs from "~~[and]~~"; and

On page 2, line 2, after the word "disease", by deleting the following "*, and human papillomavirus*".

Floor Amendment No. 1 to the Committee Substitute to **HB 212**, by Representative Graham:

HB 212, On page 4, lines 7 and 8, by deleting "*one hundred (100)*" and inserting "*one hundred fifty (150)* in lieu thereof";

On page 4, line 8, after the word "*than*" by deleting "*one hundred (100)*" and inserting "*one hundred fifty (150)*" in lieu thereof;

On page 4, line 17, after the "*(7)*" by inserting the following:

"*Upon retirement, any member of the Kentucky Employees Retirement System may designate excess accumulated sick leave, which is not used during the conversion of sick leave into service credit at retirement, to transfer to the state employee Sick Leave Bank established by Section 2 of this Act.*";

On page 4, line 17, before the word "*The*" by inserting "*(8)*;

On page 4, line 20, by deleting "*(8)*" and inserting "*(9)*" in lieu thereof;

On page 4, line 24, by deleting "*(9)*" and inserting "*(10)*" in lieu thereof;

On page 4, line 27, by deleting "*(10)*" and inserting "*(11)*" in lieu thereof;

On page 5, line 3, by deleting "*(11)*" and inserting "*(12)*" in lieu thereof;

On page 5, line 8, by deleting "*(12)*" and inserting "*(13)*" in lieu thereof;

On page 5, line 14, by deleting "*(13)*" and inserting "*(14)*" in lieu thereof;

On page 5, line 17, by deleting "*(14)*" and inserting "*(15)*" in lieu thereof;

On page 5, line 21, by deleting "*(15)*" and inserting "*(16)*" in lieu thereof;

On page 6, line 3, by deleting "*(16)*" and inserting "*(17)*" in lieu thereof;

On page 6, line 13, by deleting "*(17)*" and inserting "*(18)*" in lieu thereof;

On page 6, line 19, by deleting "*(18)*" and inserting "*(19)*" in lieu thereof;

On page 6, line 22, by deleting "*(19)*" and inserting "*(20)*" in lieu thereof;

On page 6, line 27, by deleting "*(20)*" and inserting "*(21)*" in lieu thereof;

On page 7, line 3, by deleting "*(21)*" and inserting "*(22)*" in lieu thereof;

On page 7, line 5, by deleting "*(22)*" and inserting "*(23)*" in lieu thereof;

On page 7, line 12, by deleting "*(23)*" and inserting "*(24)*" in lieu thereof;

On page 7, line 16, by deleting "*(24)*" and inserting "*(25)*" in lieu thereof;

On page 7, line 21, by deleting "*(25)*" and inserting "*(26)*" in lieu thereof;

On page 7, line 24, by deleting "*(26)*" and inserting "*(27)*" in lieu thereof;

On page 8, line 8, by deleting "*(27)*" and inserting "*(28)*" in lieu thereof;

On page 8, line 11, by deleting "*(28)*" and inserting "*(29)*" in lieu thereof;

On page 8, line 15, by deleting "*(29)*" and inserting "*(30)*" in lieu thereof;

On page 8, line 20, by deleting "*(30)*" and inserting "*(31)*" in lieu thereof;

On page 12, between lines 7 and 8, by inserting the following:

"Section 5. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the system. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit, and the last participating Kentucky Employees Retirement Systems employer shall pay to the retirement system the value of the additional service credit based on the formula adopted by the board. All of a state policeman's sick leave balance, expressed in months, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652.

(3) ***Upon retirement, any member of the Kentucky Employees Retirement System may designate excess accumulated sick leave, which is not used during the conversion of sick leave into service credit at retirement, to transfer to the state employee Sick Leave Bank established by this Act.***

(4) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the system that a sick leave program has been formally adopted and is universally administered within the agency."; and

On page 12, line 8, by deleting "Section 5." and inserting "Section 6" in lieu thereof.

Floor Amendment No. 1 to **HB 285**, by Representative Rasche:

HB 285, On page 1, line 23, after "of the" by inserting "***dispute***"; and

On page 1, line 23 by bracketing and striking through "agreement"; and

On page 1, line 25, before "establish" by inserting "***resolve the dispute***"; and

On page 1, line 25, by bracketing and striking through "establish the terms of agreement"; and

On page 2, line 8, after "amend the" by inserting "***decision***"; and

On page 2, line 8, by bracketing and striking through "agreement".

Floor Amendment No. 13 Title to **HB 305**, by Representative Harmon:

HB 305, Amend title to read "AN ACT relating to employment compensation."

Floor Amendment No. 12 to **HB 305**, by Representative Harmon:

HB 305, On page 2, after line 13, insert the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Federal minimum wage" means the federal minimum hourly wage referred to in Section 1 of this Act;

(b) "State minimum wage" means the minimum hourly wage established under Section 1 of this Act;and

(c) "Qualifying employer" means an employer who employs one hundred (100) or fewer employees as determined by the number of employees reported on wage withholding reports required by KRS 141.335 for the previous year.

(2) A qualifying employer may claim a nonrefundable tax credit against the taxes imposed by KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as prescribed in Section 3 of this Act, for the payment of the state minimum wage. The credit shall be equal to the number of employee hours paid during the year multiplied by the difference between the state minimum wage and the federal minimum wage.

(3) The department may promulgate an administrative regulation to specify the information required and the format to be used to claim the credit permitted in this section.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following

order:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(c) The certified rehabilitation credit permitted by KRS 171.397;

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;~~[and]~~

(o) The clean coal incentive credit permitted by KRS 141.428*; and*

(p) The state minimum wage tax credit permitted by Section 2 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069; and

(d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305; and

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(b) The certified rehabilitation credit permitted by KRS 171.397;

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~ and~~]

(o) The clean coal incentive credit permitted by KRS 141.428***; and***

(p) The state minimum wage tax credit permitted by Section 2 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.".

Floor Amendment No. 1 to **HB 403**, by Representative Fischer:

HB 403, On page 1, after line 22, by inserting the following:

"***(6) Damages recoverable under this section shall be limited to a maximum of one hundred and fifty thousand dollars ($150,000).***

(7) If any part of this section is found to be unconstitutional by the Kentucky Court of Appeals, the Supreme Court of Kentucky, the United States Sixth Circuit Court of Appeals, or the Supreme Court of the United States, then the entirety of this section shall cease to be of effect, notwithstanding the provisions of KRS 446.090 regarding severability.".

Floor Amendment No. 2 to **HB 403**, by Representative Fischer:

HB 403, On page 1, after line 22, by inserting the following:

"***(6) Damages recoverable under this section shall be limited to a maximum of one hundred and fifty thousand dollars ($150,000).***

(7) If any part of this section is found to be unconstitutional by the Kentucky Court of Appeals, the Supreme Court of Kentucky, the United States Sixth Circuit Court of Appeals, or the Supreme Court of the United States, then the entirety of this section shall cease to be of effect, notwithstanding the provisions of KRS 446.090 regarding severability.

Section 2. KRS 411.135 is amended to read as follows:

(1) In a wrongful death action in which the decedent was a minor ***or unborn*** child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority ***and gestation***, in addition to all other elements of the damage usually recoverable in a wrongful death action.

(2) If any part of this section is found to be unconstitutional by the Kentucky Court of Appeals, the Supreme Court of Kentucky, the United States Sixth Circuit Court of Appeals, or the Supreme Court of the United States, then the entirety of this section shall cease to be of effect, notwithstanding the provisions of KRS 446.090 regarding severability.".

Floor Amendment No. 4 to the Committee Substitute to **HB 403**, by Representative Fischer:

HB 403, On page 1, between lines 19 and 20, by inserting the following:

"***(5) Damages recoverable under this section shall be limited to a maximum of one hundred and fifty thousand dollars ($150,000).***

(6) If any part of this section is found to be unconstitutional by the Kentucky Court of Appeals, the Supreme Court of Kentucky, the United States Sixth Circuit Court of Appeals, or the Supreme Court of the United States, then the entirety of this section shall cease to be of effect, notwithstanding the provisions of KRS 446.090 regarding severability.

Section 2. KRS 411.135 is amended to read as follows:

(1) In a wrongful death action in which the decedent was a minor ***or unborn*** child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority ***and gestation***, in addition to all other elements of the damage usually recoverable in a wrongful death action.

(2) If any part of this section is found to be unconstitutional by the Kentucky Court of Appeals, the Supreme Court of Kentucky, the United States Sixth Circuit Court of Appeals, or the Supreme Court of the United States, then the entirety of this section shall cease to be of effect, notwithstanding the provisions of KRS 446.090 regarding severability."; and

By renumbering the subsequent section accordingly.

Floor Amendment No. 3 to the Committee Substitute to **HB 403**, by Representative Fischer:

HB 403, On page 1, between lines 19 and 20, by inserting the following:

"***(5) Damages recoverable under this section shall be limited to a maximum of one hundred and fifty thousand dollars ($150,000).***

(6) If any part of this section is found to be unconstitutional by the Kentucky Court of Appeals, the Supreme Court of Kentucky, the United States Sixth Circuit Court of Appeals, or the Supreme Court of the United States, then the entirety of this section shall cease to be of effect, notwithstanding the provisions of KRS 446.090 regarding severability.".

Floor Amendment No. 1 to **HB 128**, by Representative C. Belcher:

HB 128, On page 1, line 3, delete "***twenty-four (24)***" and insert in lieu therof "***twenty-six (26)***"; and

On page 1, line 6, after the phrase "in excess of" insert "***forty-five (45)***" and place brackets and strike through "thirty-six (36)"; and

On page 2, line 12, delete "***twenty-four (24)***" and insert in lieu therof "***twenty-six (26)***"; and

On page 2, line 20, after the phrase "in excess of" insert "***forty-five (45)***" and place brackets and strike through "thirty-six (36)"; and

On page 3, line 21, delete "***twenty-four (24)***" and insert in lieu therof "***twenty-six (26)***".

Floor Amendment No. 11 to the Committee Substitute to **HB 305**, by Representative Harmon:

HB 305, On page 2, after line 6, by inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- ***(a) "Federal minimum wage" means the federal minimum hourly wage referred to in Section 1 of this Act;***
- ***(b) "State minimum wage" means the minimum hourly wage established under Section 1 of this Act;and***
- ***(c) "Qualifying employer" means an employer who employs one hundred (100) or fewer employees as determined by the number of employees reported on wage withholding reports required by KRS 141.335 for the previous year.***

(2) A qualifying employer may claim a nonrefundable tax credit against the taxes imposed by KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as prescribed in Section 3 of this Act, for the payment of the state minimum wage. The credit shall be equal to the number of employee hours paid during the year multiplied by the difference between the state minimum wage and the federal minimum wage.

(3) The department may promulgate an administrative regulation to specify the information required and the format to be used to claim the credit permitted in this section.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
  - 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;
- (c) The certified rehabilitation credit permitted by KRS 171.397;
- (d) The health insurance credit permitted by KRS 141.062;
- (e) The tax paid to other states credit permitted by KRS 141.070;
- (f) The credit for hiring the unemployed permitted by KRS 141.065;
- (g) The recycling or composting equipment credit permitted by KRS 141.390;
- (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~and~~]

(o) The clean coal incentive credit permitted by KRS 141.428*; and*

(p) The state minimum wage tax credit permitted by Section 2 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069; and

(d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305; and

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(b) The certified rehabilitation credit permitted by KRS 171.397;

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~and~~]

(o) The clean coal incentive credit permitted by KRS 141.428*; and*

(p) The state minimum wage tax credit permitted by Section 2 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.".

Floor Amendment No. 10 to the Committee Substitute to **HB 305**, by Representative Floyd:

HB 305, On page 2, after line 6, insert the following:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;

(b) "Office" means the Office of Workplace Standards in the Department of Labor;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;
2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;
3. Any individual employed by the United States;
4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
5. Any individual classified and given a certificate by the executive director showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;
6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8.[~~Any individual engaged in the delivery of newspapers to the consumer;~~

~~9.~~] Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

9.[~~10.~~] Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

10.[~~11.~~] Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or

11.[~~12.~~] Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representatives Comer, Floyd, Riggs, and Sims

HB 6, Representative B. Smith

HB 7, Representative Denham

HB 16, Representative Webb

HB 26, Representative Greer

HB 62, Representative Graham

HB 75, Representatives Simpson and Koenig

HB 82, Representative Palumbo

HB 120, Representative Comer

HB 122, Representative Greer

HB 187, Representatives J. Lee and Ballard

HB 210, Representative Couch

HB 214, Representative Webb

HB 222, Representative Couch

HB 244, Representative Denham

HB 291, Representative Sims

HB 310, Representative Palumbo

HB 326, Representatives Denham, Tilley, and McKee

HB 332, Representative McKee

HB 342, Representative Dossett

HB 362, Representatives Bell and Henley

HB 370, Representative Yonts

HB 386, Representative Rand

HB 390, Representatives Dossett, Koenig, and Sims

HB 391, Representative Jenkins

HB 418, Representative Cherry

HB 435, Representative Greer

HB 460, Representative Upchurch

HB 462, Representative Adams

HB 466, Representative Turner

HB 472, Representative Denham

HB 480, Representative Embry

HB 490, Representative Upchurch

HB 500, Representatives Nelson, Couch, Pullin, Stacy, Vincent, and Webb

HB 508, Representative Nesler

HCR 76, Representative Embry

The following member filed a request to have her name withdrawn as co-sponsor of a Bill:

HB 352, Representative Wuchner

Announcements

Committee on Seniors, Military Affairs, and Public Safety, upon recess, House Chamber

Minority Caucus, Tuesday, February 20, 2007, 1:00 p.m., Room 169

Committee on Education, Tuesday, February 20, 2007, 2:00 p.m., Room 129

Committee on Transportation, Tuesday, February 20, 2007, 12:00 noon

Committee on Appropriations and Revenue, Tuesday, February 20, 2007, 2:00 p.m.

Adjournment

Representative Adkins moved to adjourn until the hour of 4:00 p.m. on Tuesday, February 20, 2007.

The motion that the House adjourn until 4:00 p.m., Tuesday, February 20, 2007, was adopted by voice vote.

TUESDAY, FEBRUARY 20, 2007

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Pastor Bobby Hollon, First Church of God, Jackson, Kentucky, a guest of Representative Edmonds.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The National Anthem was sung by Erica Neace, a guest of Representative Edmonds.

The roll was called. All members were present except Representatives Moberly and Napier.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 16, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Representative Damron moved that the rules be suspended to act on a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 135**:

HR 135, A RESOLUTION declaring February 20, 2007, as Kentucky Hospice Day.

WHEREAS, the goal of hospice care is to affirm life and improve the quality of a patient's last days by offering comfort and dignity; and

WHEREAS, hospice provides an option for individuals with terminal illnesses to be cared for as they choose in their final days, often in their own homes and surrounded by the love of their families; and

WHEREAS, hospice deals with the emotional, social, and spiritual impact of the disease on the patient and the patient's family and friends; and

WHEREAS, hospice programs exist in the hope and belief that, through appropriate care and the promotion of a caring community sensitive to their needs, patients and families may be free to attain a degree of mental and spiritual preparation of death that is satisfactory for them; and

WHEREAS, today there are more than 3,200 hospice programs in the United States, Puerto Rico, and Guam; and

WHEREAS, hospice programs care for over one million Americans throughout the country each year; and

WHEREAS, Kentucky hospice organizations care for over 14,000 patients per year; and

WHEREAS, today there are 25 hospice facilities faithfully treating terminally ill patients across the Commonwealth; and

WHEREAS, the entire Commonwealth is grateful for the work of our dedicated doctors, nurses, counselors, social workers, and volunteers who provide quality hospice care to our fellow Kentuckians; and

WHEREAS, today we recognize all medical professionals and hospice caregivers who are building a more compassionate society by providing comfort to those most in need;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body declares February 20, 2007, as Kentucky Hospice Day.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Kentucky Hospice Association, 305 Ann Street, Suite 308, Frankfort, Kentucky 40601.

There being no objection, **HR 135** was adopted.

Representative Graham moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 36.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Rotary Club of Frankfort and Rotary International as members representing this notable organization gather to witness this day's activities during the 2007 Regular Session of the Kentucky General Assembly. Further, this extraordinary organization of business and professional leaders that encourages the practice of the highest ethical standards in all vocations and strives to build goodwill and peace throughout the world is afforded the deepest gratitude for its immense and valuable work to develop and support a wide range of humanitarian efforts, including the PolioPlus Program, which, in cooperation with the United Nations World Health Organization, the U.S. Centers for Disease Control and the United Nations Children's Fund, has achieved a ninety-nine percent reduction in the number of polio cases worldwide. The members of this august body are pleased to join Speaker Jody Richards and Representative Derrick W. Graham in applauding the extraordinary work accomplished by Rotary International and the members of the Rotary Club of Frankfort and in extending to each of them a warm welcome to the Chamber of the Kentucky House of Representatives. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and seven.

Legislative Citation No. 36 was adopted without objection.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Siler moved that he be recorded as voting "Yea" on **HB 244, 273, 197, 120, 144, 89, HCR 32, 25, 29,** and **31.** Agreed.

Representative Siler moved that he be recorded as voting "Nay" on **HB 3**. Agreed.

Representative Wuchner moved that her vote be changed from "Nay" to "Yea" on **HB 53**. Agreed.

Representative Webb moved that she be recorded as voting "Yea" on **HB 258**. Agreed.

Representative Rasche moved that he be recorded as voting "Yea" on **HB 125**. Agreed.

Representative Stacy moved that his vote be changed from "Nay" to "Yea" on **HB 5**. Agreed.

Representative Graham moved that his vote be changed from "Nay" to "Yea" on **HB 46**. Agreed.

Representative Owens moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed

Representative Owens moved the adoption of the following **HR 39**:

HR 39, A RESOLUTION honoring the University of Louisville Football Cardinals, 2007 Orange Bowl Champions.

WHEREAS, on Tuesday, January 2, 2007, before a crowd of 74,470 at Dolphins Stadium in Miami, the University of Louisville Cardinals defeated the Demon Deacons of Wake Forest University by a score of 24-13 to win the 2007 Orange Bowl; and

WHEREAS, the victory capped off what was the finest season in Cardinal gridiron history, with a 12-1 final record, the most wins in a season in school history, a Big East Conference Championship, and the school's first win in a Bowl Championship Series game; and

WHEREAS, the Cardinals were led on the field by junior quarterback Brian Brohm, who completed 24 of 34 pass attempts for 312 yards and was named the MVP of the game, and junior wide receiver Harry Douglas, whose 10 catches tied an Orange Bowl record and 165 receiving yards in the game gave him 1,265 receiving yards for the season, setting a new school record; and

WHEREAS, the Cardinals overcame the loss of Heisman Trophy candidate running back Michael Bush in the season-opening victory over the University of Kentucky by spreading the load out among several backs who played vital roles in the Orange Bowl win, with senior Kolby Smith accounting for 115 total yards, junior Brock Bolen accounting for 61 yards and a touchdown, and freshman Anthony Allen scoring two touchdowns; and

WHEREAS, the engine that drove the Cardinals' high-powered offense all season and led to 475 yards offense in the Orange Bowl was the offensive line, led by seniors Renardo Foster and Kurt Quarterman, junior Danny Barlowe, and sophomores George Bussey and Eric Wood; and

WHEREAS, the gritty Cardinal defense, which played a key role in the Cardinal victory, forcing turnovers at key times and recording four sacks of the Wake Forest quarterback, was led by senior tackle Amobi Akoye, who recorded two sacks, junior linebacker Malik Jackson, who recovered a fumble and recorded one sack, and senior cornerback William Gay, who broke up two critical passes and stopped Wake's last gasp drive with an acrobatic interception late in the fourth quarter; and

WHEREAS, defensive stalwarts for the Cardinals included Zach Anderson, Nate Harris, Rod Council, Adrian Grady, Abe Brown, and Jon Russell; and

WHEREAS, the success of the Cardinals program is directly a result of the efforts of head coach Bobby Petrino and a young and talented staff of coordinators and position coaches who have led the Cardinals to a 41-9 record, four consecutive bowl appearances, and two conference championships in the last four years; and

WHEREAS, the accomplishments and efforts of this talented group of young men will forever be remembered in the annals of Kentucky gridiron history, as the 2006 Louisville Cardinals are arguably the finest college football squad the Commonwealth has produced; and

WHEREAS, it is only fitting that this team be publicly saluted for its tremendous achievements and the notoriety it has brought to the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this body, both individually and collectively, do hereby congratulate the University of Louisville Football Cardinals, coach Bobby Petrino, Director of Athletics Tom Jurich, and President James Ramsey on their victory in the 2007 Orange Bowl and all their accomplishments of the past season, and wish them future success in all their endeavors.

Section 2. That the members of this body commend the effort and dedication of this group of talented student athletes as role models for the youth of our Commonwealth.

Section 3. The Clerk of the House of Representatives shall forward of a copy of this Resolution to Tom Jurich, Director of Athletics, University of Louisville, Louisville, KY 40292.

There being no objection, **HR 39** was adopted.

Introduction of bills and Resolutions

HB 539, by Representatives Richards and Wilkey: AN ACT relating to community redevelopment in cities of the second class.

HB 540, by Representative McKee: AN ACT relating to reference cigarettes.

HB 541, by Representative Siler: AN ACT relating to cigarette tax.

HB 542, by Representative Koenig: AN ACT relating to the runoff primary and declaring an emergency.

HB 543, by Representative Collins: AN ACT relating to oil and gas.

HB 544, by Representative Gray: AN ACT relating to University of Kentucky employees, and making an appropriation therefor.

HB 545, by Representative Henderson: AN ACT relating to retirement.

HB 546, by Representative Clark: AN ACT relating to gaming and making an appropriation therefor.

HB 547, by Representative Clark: AN ACT proposing to create a new section of the Constitution of Kentucky and amend Section 226 of the Constitution of Kentucky, relating to casinos.

HB 548, by Representative Marzian: AN ACT relating to crimes and punishments.

HB 549, by Representatives Clark and Draud: AN ACT relating to tax increment financing.

HB 550, by Representative Palumbo: AN ACT relating to presidential elections.

HB 551, by Representative Hoffman: AN ACT relating to criminal justice.

HB 552, by Representative Palumbo: AN ACT relating to motor vehicles.

HB 553, by Representative Palumbo: AN ACT relating to plumbers.

HB 554, by Representative Damron: AN ACT relating to economic development.

HB 555, by Representative Adams: AN ACT relating to crime prevention.

HB 556, by Representative Webb: AN ACT relating to constables.

HB 557, by Representative Pasley: AN ACT relating to pari-mutuel tax and making an appropriation thereof.

HB 558, by Representative Pasley: AN ACT relating to personnel titles.

HB 559, by Representative Pasley: AN ACT relating to appropriations.

HB 560, by Representative Butler: AN ACT relating to motor vehicle usage tax.

HB 561, by Representative Rasche: AN ACT relating to personnel titles.

HB 562, by Representative Stacy: AN ACT relating to the membership of the School Facilities Construction Commission.

HB 563, by Representative Rasche: AN ACT relating to retirement.

HB 564, by Representative Rasche: AN ACT relating to civil actions.

HB 565, by Representative Rasche: AN ACT relating to the biennial report on education.

HB 566, by Representative Thompson: AN ACT relating to the taxation of snuff.

HB 567, by Representative Jenkins: AN ACT relating to tobacco products.

HB 568, by Representative Wilkey: AN ACT relating to taxation.

HB 569, by Representative Jenkins: AN ACT relating to pari-mutuel tax and making an appropriation thereof.

HB 570, by Representatives Westrom and Rand: AN ACT relating to mental health services.

HB 571, by Representative Moore: AN ACT relating to motor vehicle insurance coverage.

HCR 154, by Representative Adkins: A CONCURRENT RESOLUTION confirming the nomination of Eugene Jeffrey Mosley to the governor's Postsecondary Education Nominating Committee.

HCR 155, by Representative Wayne: A CONCURRENT RESOLUTION authorizing and directing a study to determine the suitability of using public broadcast legal notices to meet advertising requirements in KRS Chapter 424.

HR 156, by Representative Hoffman: A RESOLUTION relating to Kentucky's youth generation and its grandparents' generation and urging collaborative community endeavors.

HR 157, by Representative Hoffman: A RESOLUTION designating March 10, 2007, as "Harriet Tubman Day" in the Commonwealth of Kentucky.

HR 158, by Representative Damron: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sherman Dean, Jr.

HCR 159, by Representatives Greer, Stein, Vincent, and Rasche: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Judiciary to study how school districts can most effectively conduct criminal background checks on certified and classified employees, student teachers, and school volunteers.

HCR 160, by Representatives Stacy and Richards: A CONCURRENT RESOLUTION creating a Save Our Streams Task Force.

HR 161, by Representative Dedman: A RESOLUTION honoring the Mercer County Titans, 2006 KHSAA Class 2A Football Champions.

HR 162, by Representative Dedman: A RESOLUTION honoring the Mercer County High School Marching Band, 2006 KMEA Class AA State Marching Band Champions.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 475**

Appropriations and Revenue: **HB 476, 478, 479, 480, 502, 536**

Banking and Insurance: **HB 498, 506, 523**

Education: **HB 537**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 483, 484, 488, 501**

Health and Welfare: **HB 474, 504**

Judiciary: **HB 482, 485, SB 65**

Labor and Industry: **HB 499**

Local Government: **HB 489, 496, 534**

Seniors, Military Affairs and Public Safety: **HB 522, SB 22**

State Government: **HB 486, HCR 151, SB 58**

Transportation: **HB 481**

House Floor: **HR 150, 152, 153**

Representative Adkins moved that the rules be suspended for a Committee on Committees Meeting. Agreed.

The House stood at ease while the Committee on Committees met.

Representative Adkins moved that the rules be suspended for Committee on Committees Report. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 540**

Appropriations and Revenue: **HB 539, 549**

Judiciary: **HB 551**

Report of Committees

The Committee on Committees reported the following committee appointments:

Committee on State Government

Representatives Rob Wilkey, Jimmy Higdon, and Melvin Henley

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Tourism Development and Energy: **HB 129, HCR 139**

Economic Development: **HB 313, 460, 468**

Health and Welfare: **HB 112, 459, 431, 298, 314, 473, 141, 406**

State Government: **HB 25, 294, 439, 464, 511, 318, 166, HCR 16, 107, HR 123, SB 55**

Report of Committees

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 131, HB 374, HB 387,** and **HB 405,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 131, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.265 is amended to read as follows:

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate~~[for city office]~~ who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the regular or special election. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) A person shall be ineligible as a write-in candidate for more than one (1) office in a regular or special election.

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State not less than ten (10) days preceding the date of the regular election for those offices. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations

of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

HB 374, AN ACT relating to voting rights for persons with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.590 is amended to read as follows:

(1) If the respondent is found partially disabled in managing his personal affairs, but not partially disabled or disabled in managing his financial resources, a limited guardian shall be appointed.

(2) If the respondent is found partially disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a limited conservator shall be appointed.

(3) If the respondent is found partially disabled in managing both his personal affairs and financial resources, a limited guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a limited conservator.

(4) If the respondent is found disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a conservator shall be appointed.

(5) If the respondent is found disabled in managing both his personal affairs and financial resources, a guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a conservator.

(6) The order of appointment of a limited guardian, guardian, limited conservator, or conservator shall specify:

    (a) The type of guardianship or conservatorship to which the ward is subject;
    (b) The name and address of the limited guardian, guardian, limited conservator, or conservator;
    (c) The name and address of the standby guardian or conservator, if a standby guardian or conservator is designated;
    (d) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;
    (e) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled; and
    (f) The duration of the term of guardianship or conservatorship.

(7) A limited guardian or limited conservator shall not be appointed for a term greater than five (5) years and may be appointed for a lesser period. A guardian or conservator may be appointed for a period of unlimited duration.

(8) The judgment of partial disability or disability and the order of appointment shall be filed in the District Court. The judgment shall be indexed by the county clerk in the book in which notices of actions and encumbrances are indexed. Unless such judgment is filed and indexed, it shall not constitute notice to any subsequent bona fide purchaser for value, mortgagee, or encumbrancer.

(9) If the respondent is determined to be disabled or partially disabled but no limited guardian, guardian, limited conservator, or conservator is appointed at the hearing, the determination shall have no legal effect.

(10) The rights of which a ward is legally deprived upon a determination of disability in managing his personal affairs and financial resources include, but are not limited to, the right to[~~vote,~~] dispose of property, execute instruments, enter into contractual relationships, determine his living arrangements, consent to medical procedures, and obtain a motor vehicle operator's license. ***A ward shall only be deprived of the right to vote if the court separately and specifically makes a finding on the record that the ward's disability legally deprives the ward of the right to vote, and the court specifically orders the ward deprived of the right to vote in its judgment.***

(11) A partially disabled or disabled person for whom a limited guardian, limited conservator, or conservator has been appointed retains all legal and civil rights except those which have by court order been designated as legal disabilities or which have been specifically granted to the limited guardian, limited conservator, or conservator. A person who is partially disabled may be subject to some but not all of the disabilities specified in subsection (10) of this section.

HB 387, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary[~~election~~] for the candidates for nomination by the party at whose hands he ***or she*** seeks the nomination, shall have his ***or her*** name printed on the official ballot of his ***or her*** party for an office to which he ***or she*** is eligible in that

primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.***

(a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

"For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ----- Party, I, ----- (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; that I believe in the principles of the ----- Party, and intend to support its principles and policies; that I meet all the statutory and constitutional qualifications for the office which I am seeking; that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate and by the two (2) voters making the declaration and signing the candidate's petition for office.

(b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ----- Party, I, -----, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; and I, -----, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; that we believe in the principles of the ----- Party, and intend to support its principles and policies; that we meet all the statutory and constitutional qualifications for the offices which we are seeking; that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate and by the two (2) voters making the declaration and signing the petition for office.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 2. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary[~~ election~~]. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary[~~ election~~]. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers may be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail

within twenty-four (24) hours of filing.

Section 3. KRS 118.227 is amended to read as follows:

(1) If a vacancy occurs in a slate of candidates before the ballots are printed for the primary[~~ election~~] because of death, disqualification to hold the office sought, or severe disabling condition which arose after the ***deadline for filing the notification and declaration***[~~slate formed a campaign committee~~], the remaining member of the slate may:

(a) Designate a replacement for the vacant candidate; or

(b) Change the composition of the slate and designate a running mate.

Any changes made to the slate of candidates as set forth in this subsection shall be made on forms ***prescribed by the State Board of Elections and*** filed with the ***Secretary of State***[~~registry~~] not later than the deadline for printing primary election ballots, but only following certification to the remaining candidates by the Secretary of State that a vacancy exists for a reason specified in this subsection. ***The Secretary of State shall immediately certify any changes made to a slate of candidates to the appropriate county clerk, Registry of Election Finance, and the State Board of Elections.***

(2) If a vacancy occurs in a slate of candidates after the ballots are printed for the primary[~~ election~~], the remaining member of the slate may:

(a) Designate a replacement for the vacant candidate; or

(b) Change the composition of the slate and designate a running mate.

Any changes made to the slate of candidates as set forth in this subsection shall be made on forms ***prescribed by the State Board of Elections and*** filed with the ***Secretary of State***[~~registry~~] prior to the primary election, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in subsection (1) of this section. ***The Secretary of State shall immediately certify any changes made to a slate of candidates to the appropriate county clerk, Registry of Election Finance, and the State Board of Elections.***

(3) If a replacement for a vacant candidate is made after the ballots are printed for the primary[~~ election~~] because of death, disqualification to hold the office sought, or severe disabling condition which arose after the ***deadline for filing the notification and declaration***[~~slate formed a campaign committee~~], notices informing the voters of the change in the composition of the slate shall be ***printed by the State Board of Election and sent to the appropriate county clerk to be*** posted at each precinct polling place. ***Any votes cast prior to any changes made to the composition of a slate shall be counted as votes cast for the new slate composition.***

(4) The provisions of KRS 118.105 shall apply to vacancies occurring in the nomination of a qualifying slate of candidates.

Section 4. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him or her, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office, excluding President of the United States in accordance with KRS 118.591(1), shall not be ***affixed on the document to be filed***[~~solicited~~] prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer or board of education member, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include the date he or she affixes the signature, address of residence, and date of birth. Failure of a voter to include the signature affixation date, date of birth, and address of residence shall result in the signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he or she shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his or her signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of

the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 5. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary[~~election~~] for the office. The petition shall be sworn to before an officer authorized to administer an oath by the candidate and by not less than two (2) registered voters from the district or circuit from which he ***or she*** seeks nomination. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. The petition shall include a declaration sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary[~~election~~].

(5) Not later than the third Tuesday in February preceding the primary[~~election~~], and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the ***Secretary of State***[~~county clerk~~].

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in ***the Secretary's***[~~his~~] office certificates of nomination, and send copies to the candidates.

Section 6. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his ***or her*** nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary[~~election~~] for the office sought. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of***

the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary[~~election~~], but shall file his ***or her*** nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he ***or she*** was an unsuccessful candidate in the primary[~~election~~], his ***or her*** name may be placed on the voting machines for the regular election as a candidate of that party if he ***or she*** has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his ***or her*** nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary[~~election~~] for nominations for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary[~~election~~] for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.***
2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
3. If a city does not conduct a primary[~~election~~] pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.
4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.
5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.
6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.

(c) A candidate for city office who is defeated in a nonpartisan primary[~~election~~] shall be ineligible as a candidate for the same office in the regular election.

Section 7. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary[~~election~~] to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan ***primaries***[~~primary elections~~] shall be conducted by the same officers, chosen and acting in the same

manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he ***or she*** is authorized, he ***or she*** shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary[~~ election~~] shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If, before the ***time of certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he ***or she*** will not accept the nomination, the clerk shall not cause ***the candidate's***[~~his~~] name to be printed on the ballot.

(9) If, after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;

(c) In a primary[~~ election~~], if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary[~~ election~~] and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary[~~ election~~].

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled. If two (2) candidates are tied for the second highest number of votes in a mayoral election, the names of those two (2) candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot.

(14) At the regular election following a nonpartisan primary[~~ election~~], the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 8. KRS 83A.175 is amended to read as follows:

(1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary~~[election]~~ pursuant to KRS 83A.045.

(2) Each candidate shall, not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing petitions of nomination with the county clerk as provided in KRS 83A.047, file a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he ***or she*** is authorized, he ***or she*** shall be counted as a petitioner for the candidate whose petition is filed first.

(3) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(5) If, before the ***certification of candidates who will appear on the ballot***~~[ballots are printed]~~, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he ***or she*** will not accept the election, the clerk shall not cause his ***or her*** name to be printed on the ballot.

(6) If, after the ***certification of candidates who will appear on the ballot***~~[ballots are printed]~~, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;

(c) If there is only one (1) remaining candidate on the ballot for that office in a primary~~[election]~~, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate, and the officer with whom the remaining candidate has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate and send a copy to the remaining candidate.

Section 9. KRS 117.265 is amended to read as follows:

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate ***for office***, by writing the name of his ***or her*** choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. ***Any candidate whose name appears on the ballot shall be ineligible as a write-in candidate in the regular election, except when a vacancy in a different office occurs because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, or in the case of the nomination of an unopposed candidate.*** Any candidate for city office who is defeated in a partisan or nonpartisan primary~~[election]~~ shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his ***or her*** choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the regular or special election. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) A person shall be ineligible as a write-in candidate***:***

(a) For more than one (1) office in a regular or special election***; or***

(b) If the candidate's name appears on the ballot and the candidate has failed to file a notice of withdrawal prior to filing an intent to be a write-in candidate for a different office in accordance with the provisions of subsections (1) and (2) of this section.

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State not less than ten (10) days preceding the date of the regular election for those offices. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. Write-in votes cast for the candidates

whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

HB 405, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers, challengers, ***persons assisting voters in accordance with subsection (3) of Section 2 of this Act,*** and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except ***as follows:***

(a) For the purpose of voting***;***

(b) ~~[or except]~~By authority of the election officers to keep order and enforce the law***;***

(c) With the express approval of the county board of elections to repair or replace voting equipment that is malfunctioning and to provide additional voting equipment; or~~[.]~~

(d) At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall electioneer at the polling place on the day of any election, as established in KRS 118.025, within a distance of three hundred (300) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county, charter county, or consolidated local government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than three hundred (300) feet from the polling place. No person shall electioneer within the interior of a building or affix any electioneering materials to the exterior or interior of a building where the county clerk's office is located, or any building designated by the county board of elections and approved by the State Board of Elections for absentee voting, during the hours absentee voting is being conducted in the building by the county clerk pursuant to KRS 117.085(1)(c). Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question, but shall not include exit polling or other exceptions established by the State Board of Elections through ***the promulgation of*** administrative regulations.

(4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within three hundred (300) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any~~[regular,]~~ primary, or ***regular or*** special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 2. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless ***the voter***~~[he]~~ makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, ***the voter***~~[he]~~ is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form.

(3) Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the

voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he ***or she*** prefers, be assisted by a person of ***the voter's***[~~his~~] own choice who is ***an eligible voter in the county or is the spouse, parent, brother, sister, or child of the voter and is*** not an election officer, except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter.

(4) The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs.

(5) A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct.

(6) "Voting booth" or "ballot completion area" means an area in which a voter casts his ***or her*** vote or completes his ***or her*** ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his ***or her*** oath the specific reason that requires ***the voter***[~~him~~] to receive assistance.

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one ***(1)*** person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ***or her*** ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ***or her*** ballot, ***the voter***[~~he~~] shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," ***and*** initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12) The election sheriff shall be responsible for reporting violations of this section.

Section 3. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:

(a) That the voting equipment has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.

(3) Where voting equipment is used which does not print the candidates' names[~~, lever numbers,~~] and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and

quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

(4) If any officer shall decline to sign the return, he ***or she*** shall state ***the***[~~his~~] reason in writing, and a copy thereof, signed by ***the officer***[~~him~~], shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his ***or her*** name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.

(5) In ***primaries***[~~primary elections~~] at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making ***a***[~~his~~] determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of ***the***[~~his~~] determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.

(6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(7) In ***primaries***[~~primary elections~~], each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, ***nonpartisan candidate,*** independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to ***witness the vote count***[~~observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election~~].

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 4. KRS 117.995 is amended to read as follows:

(1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.

(3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his ***or her*** vote on the machine as required of ***the voter***[~~him~~] by this chapter shall be guilty of a Class A misdemeanor.

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(5) Any person who signs a name other than his ***or her*** own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his ***or her*** name, or any person who applies for the ballot for the use of anyone other than himself ***or herself*** or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.

(6) Any person who violates any provision of KRS 117.235 ***or 117.236*** related to prohibited activities ***during absentee voting or*** on election day, after he ***or she*** has been duly notified of the provisions by any precinct election officer, county clerk, deputy county clerk, or other law enforcement official, shall, for each offense, be guilty of a Class A misdemeanor.

(7) ***Any person who knowingly and willfully violates any provision of Section 2 of this Act shall be guilty of a Class D felony.***

(8) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate or incomplete voter assistance form or fails to complete a voter assistance form when required shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

(9)[~~(8)~~] The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.

Section 5. KRS 119.056 is amended to read as follows:

Any person in possession of nomination papers ***for attaining ballot access*** entitled to be filed under the statutes relating to ***primaries and general and special***[~~primary~~] elections who wrongfully alters, mutilates or suppresses such papers, or wrongfully fails to cause them to be filed at the proper time in the proper office, shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 405** is as follows:

HB 405, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers, challengers, ***persons assisting voters in accordance with subsection (3) of Section 2 of this Act,*** and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except ***as follows:***

(a) For the purpose of voting***;***

(b) [~~ or except ~~]By authority of the election officers to keep order and enforce the law***;***

(c) With the express approval of the county board of elections to repair or replace voting equipment that is malfunctioning and to provide additional voting equipment; or[~~.~~]

(d) At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall electioneer at the polling place on the day of any election, as established in KRS 118.025, within a distance of three hundred (300) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county, charter county, or consolidated local government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than three hundred (300) feet from the polling place. No person shall electioneer within the interior of a building or affix any electioneering materials to the exterior or interior of a building where the county clerk's office is located, or any building designated by the county board of elections and approved by the State Board of Elections for absentee voting, during the hours absentee voting is being conducted in the building by the county clerk pursuant to KRS 117.085(1)(c). Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question, but shall not include exit polling or other exceptions established by the State Board of Elections through ***the promulgation of*** administrative regulations.

(4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in

KRS 117.255.

(5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within three hundred (300) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any[~~ regular,~~] primary, or ***regular or*** special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 2. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless ***the voter***[~~he~~] makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, ***the voter***[~~he~~] is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form.

(3) Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he ***or she*** prefers, be assisted by a person of ***the voter's***[~~his~~] own choice who is ***an eligible voter in the county or is the spouse, parent, brother, sister, or child of the voter and is*** not an election officer, except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter.

(4) The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs.

(5) A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct.

(6) "Voting booth" or "ballot completion area" means an area in which a voter casts his ***or her*** vote or completes his ***or her*** ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his ***or her*** oath the specific reason that requires ***the voter***[~~him~~] to receive assistance.

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one ***(1)*** person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ***or her*** ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ***or her*** ballot, ***the voter***[~~he~~] shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," ***and*** initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12) The election sheriff shall be responsible for reporting violations of this section.

Section 3. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from

operation, and they shall sign a certificate stating:

(a) That the voting equipment has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.

(3) Where voting equipment is used which does not print the candidates' names[~~, lever numbers,~~] and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

(4) If any officer shall decline to sign the return, he ***or she*** shall state ***the***[~~his~~] reason in writing, and a copy thereof, signed by ***the officer***[~~him~~], shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his ***or her*** name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.

(5) In ***primaries***[~~primary elections~~] at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making ***a***[~~his~~] determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of ***the***[~~his~~] determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.

(6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(7) In ***primaries***[~~primary elections~~], each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, ***nonpartisan candidate,*** independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to ***witness the vote count***[~~observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election~~].

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct

election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 4. KRS 117.995 is amended to read as follows:

(1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.

(3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his ***or her*** vote on the machine as required of ***the voter***~~[him]~~ by this chapter shall be guilty of a Class A misdemeanor.

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(5) Any person who signs a name other than his ***or her*** own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his ***or her*** name, or any person who applies for the ballot for the use of anyone other than himself ***or herself*** or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.

(6) Any person who violates any provision of KRS 117.235 ***or 117.236*** related to prohibited activities ***during absentee voting or*** on election day, after he ***or she*** has been duly notified of the provisions by any precinct election officer, county clerk, deputy county clerk, or other law enforcement official, shall, for each offense, be guilty of a Class A misdemeanor.

(7) ***Any person who knowingly and willfully violates subsection (3) of Section 2 of this Act shall be guilty of a Class D felony.***

(8) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate or incomplete voter assistance form or fails to complete a voter assistance form when required shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

(9)~~[(8)]~~ The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.

Section 5. KRS 119.056 is amended to read as follows:

Any person in possession of nomination papers ***for attaining ballot access*** entitled to be filed under the statutes relating to ***primaries and general and special***~~[primary]~~ elections who wrongfully alters, mutilates or suppresses such papers, or wrongfully fails to cause them to be filed at the proper time in the proper office, shall be guilty of a Class A misdemeanor.

The Committee on Transportation reported **HB 253, HB 266, HB 284,** with Committee Substitute attached thereto, **HB 329,** with Committee Substitute attached thereto, **HB 381,** with Committee Substitute attached thereto, **HB 509, HJR 84,** with Committee Amendment attached thereto, and **HCR 122** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 253, AN ACT relating to identification cards for people experiencing homelessness.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.531 is amended to read as follows:

(1) The cost of operators' licenses and permits shall be as follows:

(a) The fee for a four (4) year original or renewal motor vehicle license shall be twenty dollars ($20);

(b) The fee for a four (4) year original or renewal motorcycle operator's license shall be twenty-four dollars ($24), twelve dollars ($12) of which shall be distributed in accordance with the provisions of subsections (2) to (4) of this section, and twelve dollars ($12) of which shall be forwarded to the road fund. The fee for a combination motor vehicle-motorcycle operator's license shall be thirty dollars ($30), eighteen dollars ($18) of which shall be distributed in accordance with the provisions of subsections (2) to (4) of this section, and twelve dollars ($12) of which shall be forwarded to the road fund;

(c) The fee for an instruction permit for a motor vehicle shall be twelve dollars ($12) including four dollars ($4) for preparing and acknowledging the application. Of the remaining eight dollars ($8), two dollars ($2) of the fee shall be distributed in accordance with the provisions of subsections (2) to (4) of this section, and six dollars ($6) shall be forwarded to the road fund;

(d) The fee for an instruction permit for a motorcycle shall be twelve dollars ($12) including one dollar ($1) for preparing and acknowledging the application. Of the remaining eleven dollars ($11), five dollars ($5) of the fee shall be distributed in accordance with the provisions of subsections (2) to (4) of this section, and six dollars ($6) shall be forwarded to the road fund;

(e) The fee for a duplicate license shall be twelve dollars ($12), six dollars ($6) of which shall be distributed in accordance with the provisions of subsections (2) to (4) of this section, and six dollars ($6) of which shall be forwarded to the road fund;

(f) The fee for an identification card shall be twelve dollars ($12), four dollars ($4) of which shall be distributed in accordance with the provisions of subsections (2) to (4) of this section, and eight dollars ($8) of which shall be forwarded to the road fund. The fee for a duplicate identification card shall be twelve dollars ($12), two dollars ($2) of which shall be distributed in accordance with the provisions of subsections (2) to (4) of this section, and ten dollars ($10) of which shall be forwarded to the road fund. ***The fee for an identification card for a person who does not have a fixed, permanent address shall be waived one (1) time***; and

(g) Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date the applicant attains the age of twenty-one (21). The fee for the license shall be two dollars ($2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) Except as provided in subsection (3) of this section, the circuit clerk shall deposit in the State Treasury to the credit of the general fund except as provided in paragraph (a), paragraph (f), and paragraph (g) of this subsection fees pertaining to applications and license fees in the following manner:

(a) Twenty-two percent (22%) of the cost for the issuance of any original and renewal license shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees and providing salary adjustments for employees;

(b) One dollar ($1) for issuance of any instruction permit;

(c) One dollar ($1) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each identification card;

(f) For each original or renewal license one dollar ($1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. For each original or renewal motorcycle operator's license and each motorcycle instruction permit, four dollars ($4) shall be credited to a restricted fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 15A.358;

(g) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, motorcycle operator's license, or personal identification card shall be requested by the clerk to make a donation of one dollar ($1) to promote an organ donor program. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, motorcycle operator's license, or personal identification card. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license; and

(h) Three dollars ($3) for a combination motor vehicle-motorcycle operator's license.

(3) The following fees shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses:

(a) One dollar ($1) for issuing of an instruction permit;

(b) Three dollars ($3) for preparing and acknowledging an application for an instruction permit;

(c) Four dollars ($4) for preparing and acknowledging an application for a duplicate license;

(d) Ten dollars ($10) for preparing and acknowledging an application for a reinstatement fee; and

(e) These fees shall be in addition to other funds provided to the circuit clerk through the regular appropriation made by the General Assembly to the Administrative Office of the Courts.

(4) The remainder of all fees, and other moneys collected by the circuit clerk shall be forwarded to road fund.

HB 266, AN ACT relating to the restoration of the privilege to operate a motor vehicle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) A person whose privilege to operate a motor vehicle was suspended or revoked for being an habitual violator under former KRS 186.642 may, after five (5) years from the date of the suspension or revocation, petition to have his or her privilege to operate a motor vehicle restored. This petition may be brought in either:

(a) The court in which the person was convicted of being an habitual violator; or

(b) The District Court having jurisdiction where the person resides.

(2) Upon the filing of this petition, and for good cause shown, the court may, in its discretion, restore the privilege of the person to operate a motor vehicle upon those terms and conditions that the court prescribes, subject to other provisions of law relating to the issuance or reinstatement of a driver's license.

Section 2. Section 1 of this Act shall apply retroactively.

HB 284, AN ACT relating to traffic safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor driven cycles;[~~ or~~]

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more***;***

(d) Off-road vehicles; or

(e) Vehicles not required by federal law to have a seat belt installed.

(2) A person shall not sell any new motor vehicle in this state nor shall any person make application for registering a new motor vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(4) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his ***or her*** duties***;***

(c) A utility or commercial vehicle driver who makes frequent stops in the course of his or her business;

(d) An emergency vehicle operator and a passenger in an emergency vehicle;

(e) A person riding in or on a vehicle in a parade;

(f) A person in the custody of a law enforcement agency;

(g) A person who cannot fasten the lap belt of a seat belt regularly installed in a motor vehicle by its manufacturer because the seat belt is too short;

(h) A person who cannot fasten the shoulder strap regularly installed in a motor vehicle by its manufacturer

because the shoulder strap is too short; or

(i) A person under five (5) feet four (4) inches in height.

(7) A peace officer shall not issue a citation for a violation of this section to a person who is exempt pursuant to subsection (6)(a) to (i) of this section.

(8) The Transportation Cabinet shall design a sticker to be placed on the license plate of a motor vehicle owned and operated by a person who has a medical excuse or is under five (5) feet four (4) inches, as shown on their motor vehicle operator's license, motorcycle operator's license, commercial driver's license, or personal identification card indicating that the person is not required to wear a seat belt because he or she has submitted evidence of the medical or height excuse to the cabinet. The cabinet may charge a fee, not to exceed three dollars ($3), for each sticker issued.

(9) A person who is the owner or lessee and sole operator of a motor vehicle may, when applying for a new or renewal vehicle license or at any other time, submit to the county clerk a copy of a medical excuse or evidence of height, as shown on the motor vehicle operator's license or commercial driver's license, and the clerk shall issue to the person a sticker designed by the cabinet under subsection (8) of this section. The sticker shall be placed on the license plate of any motor vehicle owned or leased by that person and shall identify the person to peace officers as someone who holds a medical or height excuse for not wearing a seat belt.

(10) A peace officer shall not stop a motor vehicle which has a sticker showing a medical or height excuse solely because the operator is not wearing a seat belt. A person who is under five (5) feet four (4) inches in height shall not be required to have a medical excuse in order to be exempt under subsection (6) of this section.

(11) A decision of a county attorney not to prosecute or to dismiss charges against a person, or an acquittal or finding of not guilty based on a court or jury finding that the person held a medical excuse or height excuse, shall be binding upon all peace officers, county attorneys, and courts in any jurisdiction in this Commonwealth and shall preclude the person who has not been prosecuted, against whom charges have been dropped, or who has been acquitted or found not guilty from subsequently being cited, charged, or tried for a violation of this section for failing to wear a seat belt. A peace officer, upon being shown evidence of such an acquittal, shall be barred from issuing a citation for failure to wear a seat belt.

(12)[~~(7)~~] A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.

(13)[~~(8)~~] The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

The Committee Substitute to **HB 284** is as follows:

HB 284, AN ACT relating to traffic safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:

- (a) Motorcycles;
- (b) Motor driven cycles;[~~ or~~]
- (c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more***;***
- ***(d) Off-road vehicles; or***
- ***(e) Vehicles not required by federal law to have a seat belt installed***.

(2) A person shall not sell any new motor vehicle in this state nor shall any person make application for registering a new motor vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(4) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as

required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt;[~~or~~]

(b) A letter carrier of the United States postal service while engaged in the performance of his *or her* duties*;*

(c) A passenger in an emergency vehicle;

(d) A person riding in or on a vehicle in a parade;

(e) A person in the custody of a law enforcement agency;

(f) A person who cannot fasten the lap belt of a seat belt regularly installed in a motor vehicle by its manufacturer because the seat belt is too short; or

(g) A person who cannot fasten the shoulder strap regularly installed in a motor vehicle by its manufacturer because the shoulder strap is too short.

(7) A peace officer shall not issue a citation for a violation of this section to a person who is exempt pursuant to subsection (6)(a) to (g) of this section.

(8) The Transportation Cabinet shall design a sticker to be placed on the license plate of a motor vehicle owned and operated by a person who has a medical excuse, as shown on their motor vehicle operator's license, motorcycle operator's license, commercial driver's license, or personal identification card indicating that the person is not required to wear a seat belt because he or she has submitted evidence of the medical excuse to the cabinet. The cabinet may charge a fee, not to exceed three dollars ($3), for each sticker issued.

(9) A person who is the owner or lessee and sole operator of a motor vehicle may, when applying for a new or renewal vehicle license or at any other time, submit to the county clerk a copy of a medical excuse, as shown on the motor vehicle operator's license or commercial driver's license, and the clerk shall issue to the person a sticker designed by the cabinet under subsection (8) of this section. The sticker shall be placed on the license plate of any motor vehicle owned or leased by that person and shall identify the person to peace officers as someone who holds a medical excuse for not wearing a seat belt.

(10) A peace officer shall not stop a motor vehicle which has a sticker showing a medical excuse solely because the operator is not wearing a seat belt.

(11) A decision of a county attorney not to prosecute or to dismiss charges against a person, or an acquittal or finding of not guilty based on a court or jury finding that the person held a medical excuse shall be binding upon all peace officers, county attorneys, and courts in any jurisdiction in this Commonwealth and shall preclude the person who has not been prosecuted, against whom charges have been dropped, or who has been acquitted or found not guilty from subsequently being cited, charged, or tried for a violation of this section for failing to wear a seat belt. A peace officer, upon being shown evidence of such an acquittal, shall be barred from issuing a citation for failure to wear a seat belt.

(12)[~~(7)~~] A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.

(13)[~~(8)~~] The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined[~~an amount not to exceed~~] twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs ***pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs***.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

 (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

 (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

HB 329, AN ACT relating to emergency vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.940 is amended to read as follows:

(1) The speed limitations set forth in the Kentucky Revised Statutes do not apply to emergency vehicles:

 (a) When responding to emergency calls; or

 (b) To police vehicles when in pursuit of an actual or suspected violator of the law; or

 (c) To ambulances when transporting a patient to medical care facilities; and

 (d) The driver thereof is giving the warning required by subsection (5)(a) and (b) of this section***, or is operating under the provisions of subsection (6) of this section***.

No portion of this subsection shall be construed to relieve the driver of the duty to operate the vehicle with due regard for the safety of all persons using the street or highway.

(2) The driver of an emergency vehicle, when responding to an emergency call, or of a police vehicle in pursuit of an actual or suspected violator of the law, or of an ambulance transporting a patient to a medical care facility and giving the warning required by subsection (5) of this section, upon approaching any red light or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed past such red or stop light or stop sign with due regard for the safety of persons using the street or highway.

(3) The driver of an emergency vehicle, when responding to an emergency call, or of a police vehicle in pursuit of an actual or suspected violator of the law, or of an ambulance transporting a patient to a medical care facility and giving warning required by subsection (5) of this section, may drive on the left side of any highway or in the opposite direction of a one-way street provided the normal lanes of traffic are blocked and he does so with due regard for the safety of all persons using the street or highway.

(4) The driver of an emergency or public safety vehicle may stop or park his vehicle upon any street or highway without regard to the provisions of KRS 189.390 and 189.450, provided that, during the time the vehicle is parked at the scene of

an emergency, at least one (1) warning light is in operation at all times.

(5) ***Except as provided for in subsection (6) of this section,*** the driver of an emergency vehicle desiring the use of any option granted by subsections (1) ***to***[~~through~~] (3) of this section shall give warning in the following manner:

(a) By illuminating the vehicle's warning lights continuously during the period of the emergency; and

(b) By continuous sounding of the vehicle's siren, bell, or exhaust whistle; unless

(c) The vehicle is an ambulance and the driver is of the opinion that sounding of the siren, bell, or exhaust whistle would be detrimental to the victim's health. In the event the driver of an ambulance elects not to use the siren, bell, or exhaust whistle he shall not proceed past red lights or drive in the opposite direction on a one-way street or in oncoming lanes of traffic unless no other vehicles are within five hundred (500) feet of the front of the ambulance. The driver shall not extinguish the warning lights during the period of the emergency.

(6) ***The driver of a law enforcement vehicle may use any option granted by subsections (1) to (3) of this section without giving the warning required in subsection (5) of this section, if:***

(a) The driver is responding to a situation where use of the vehicle's warning signals would increase the risk of apprehending a suspected violator or otherwise serve to inappropriately alert a suspected violator;

(b) The driver is instructed to respond without warning signals; and

(c) The driver proceeds with due regard for the safety of all persons using the street or highway.

(7) No driver or operator of any emergency or public safety or other vehicle shall use the warning lights or siren, bell, or exhaust whistle of his vehicle for any purposes or under any circumstances other than those permitted by KRS 189.910 to 189.950.

(8)[~~(7)~~] KRS 189.910 to 189.950 does not relieve the driver of any emergency or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

The Committee Substitute to **HB 329** is as follows:

HB 329, AN ACT relating to emergency vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.940 is amended to read as follows:

(1) The speed limitations set forth in the Kentucky Revised Statutes do not apply to emergency vehicles:

(a) When responding to emergency calls; or

(b) To police vehicles when in pursuit of an actual or suspected violator of the law; or

(c) To ambulances when transporting a patient to medical care facilities; and

(d) The driver thereof is giving the warning required by subsection (5)(a) and (b) of this section***, or is operating under the provisions of subsection (6) of this section***.

No portion of this subsection shall be construed to relieve the driver of the duty to operate the vehicle with due regard for the safety of all persons using the street or highway.

(2) The driver of an emergency vehicle, when responding to an emergency call, or of a police vehicle in pursuit of an actual or suspected violator of the law, or of an ambulance transporting a patient to a medical care facility and giving the warning required by subsection (5) of this section, upon approaching any red light or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed past such red or stop light or stop sign with due regard for the safety of persons using the street or highway.

(3) The driver of an emergency vehicle, when responding to an emergency call, or of a police vehicle in pursuit of an actual or suspected violator of the law, or of an ambulance transporting a patient to a medical care facility and giving warning required by subsection (5) of this section, may drive on the left side of any highway or in the opposite direction of a one-way street provided the normal lanes of traffic are blocked and he does so with due regard for the safety of all persons using the street or highway.

(4) The driver of an emergency or public safety vehicle may stop or park his vehicle upon any street or highway without regard to the provisions of KRS 189.390 and 189.450, provided that, during the time the vehicle is parked at the scene of an emergency, at least one (1) warning light is in operation at all times.

(5) ***Except as provided for in subsection (6) of this section,*** the driver of an emergency vehicle desiring the use of any option granted by subsections (1) ***to***[~~through~~] (3) of this section shall give warning in the following manner:

(a) By illuminating the vehicle's warning lights continuously during the period of the emergency; ***or***[~~ and~~]

(b) By continuous sounding of the vehicle's siren, bell, or exhaust whistle; unless

(c) The vehicle is an ambulance and the driver is of the opinion that sounding of the siren, bell, or exhaust whistle would be detrimental to the victim's health. In the event the driver of an ambulance elects not to use the siren, bell, or exhaust whistle he shall not proceed past red lights or drive in the opposite direction on a one-way street or in oncoming lanes of traffic unless no other vehicles are within five hundred (500) feet of the front of the ambulance. The driver shall not extinguish the warning lights during the period of the emergency.

(6) *The driver of a law enforcement vehicle may use any option granted by subsections (1) to (3) of this section without giving the warning required in subsection (5) of this section, if:*

(a) The driver is responding to a situation where use of the vehicle's warning signals would increase the danger involved in apprehending a suspected violator or otherwise serve to inappropriately alert a suspected violator;

(b) When practical, the driver is instructed to respond without warning signals. If approval is not granted prior to proceeding, such approval shall be requested as soon as practical after the incident; and

(c) The driver proceeds with due regard for the safety of all persons using the street or highway.

(7) No driver or operator of any emergency or public safety or other vehicle shall use the warning lights or siren, bell, or exhaust whistle of his vehicle for any purposes or under any circumstances other than those permitted by KRS 189.910 to 189.950.

(8)[~~(7)~~] KRS 189.910 to 189.950 does not relieve the driver of any emergency or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

HB 381, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Any motor vehicle that meets the age requirements of a "historic vehicle" as used in KRS 186.043(2) and is registered in accordance with KRS 186.050 may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the current motor vehicle plate and the registration receipt are kept in the vehicle at all times.

The Committee Substitute to **HB 381** is as follows:

HB 381, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Any motor vehicle that meets the age requirements of a "historic vehicle" as used in KRS 186.043(2) and is registered in accordance with KRS 186.050 may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the current motor vehicle plate and the registration receipt are kept in the vehicle at all times.

Section 2. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) There shall be a five dollar ($5) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of ten dollars ($10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(d) An inspection conducted in one (1) county within the Commonwealth of Kentucky under this subsection, and the fees paid for that inspection under this subsection, shall be honored by the certified inspector, sheriff, and county clerk in all other counties within this state. A second inspection shall not be required and additional fees shall not be required.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;

(c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle;

(e) Motor vehicles purchased in another state by persons who are residents of Kentucky but are temporarily residing out of state for at least thirty (30) days, but not longer than nine (9) months, may after the purchase of the vehicle be inspected by the state police, a local law enforcement agency, or the vehicle inspection program of another state. If an inspector in another state examines a vehicle under this paragraph, the purchaser may request the inspector to complete an affidavit stating the name of the owner, the vehicle identification number, the vehicle make and body style, the current state of registration, if any, and the current vehicle license or title number, if any. The Transportation Cabinet shall create an affidavit form containing at a minimum this information and shall post the form on the cabinet's Internet Web site. A person using an inspector in another state under this paragraph shall comply with all requirements of that state's inspection program, including payment of fees charged in that state. A person registering a motor vehicle for the first time in Kentucky under this paragraph shall transmit the application for registration, all supporting documentation, and payment for registration and usage tax to the county clerk of the county in which the person resides, and upon receipt of the appropriate documentation, the county clerk shall register the vehicle; and

(f) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and

(f) Except as provided in KRS 186A.072(2)(c) governing custom-built motorcycles, if the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by the documents specified by administrative regulations of the Department of Vehicle Regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:

(a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and

(d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;

(c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

(6) Inspections on motor vehicles that meet the definition of a historic vehicle under KRS 186.043(2) and are brought into this state shall be limited to verification of the vehicle identification number with supporting documentation for purposes of titling.

HB 509, AN ACT relating to commercial driver's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281A.010 is amended to read as follows:

(1) "Alcohol" means:

(a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume; or

(c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or

(d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred (100) milliliters of blood;

(b) The number of grams of alcohol per two hundred ten (210) liters of breath; or

(c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.

(3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.

(4) "Commerce" means:

(a) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and

(b) Trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in paragraph (a) of this subsection.

(5) "Commercial driver's license," or CDL, means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle.

(6) "Commercial driver's license information system" or CDLIS means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS 281A.120.

(8) "Commercial motor vehicle," or CMV, means a motor vehicle or combination motor vehicle used in commerce that is:

(a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;

(b) Designed to transport sixteen (16) or more passengers, including the driver;

(c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or

(d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver.

(9) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A.

(10) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or

collateral deposited to secure the person's appearance in court, a plea of guilty***, a plea of nolo contendere,*** or Alford plea entered and accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(11) "Disqualification" means any of the following actions:

(a) The suspension, revocation, or cancellation of a CDL by the Commonwealth or the jurisdiction of issuance;

(b) Any withdrawal of a person's privilege to drive a commercial motor vehicle by the Commonwealth or another jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or

(c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. pt. 391.

(12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.

(13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.

(14) "Driver's license" means a license issued by a state to an individual that authorizes the individual to drive a motor vehicle.

(15) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer.

(16) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.

(18) "Gross combination weight rating," or GCWR, is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit. In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and load therein.

(19) "Gross vehicle weight rating," or GVWR, means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle.

(20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation Law, 49 U.S.C. sec. 5101 et seq.

(21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.

(22) "Imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a danger to health, property, or the environment exists.

(23) "Moped" shall have the same meaning as in KRS 186.010(5).

(24) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail.

(25) "NDR" means the national driver register.

(26) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. sec. 386.72, 392.5, 395.13, or 396.9; comparable laws or regulations; or the North American Uniform Out-of-Service Criteria.

(27) "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.

(28) "School bus" means a vehicle that meets the specification of KRS 156.153 used to transport preprimary, primary, or secondary school students between school and home, or to and from school-sponsored events. A school bus shall not include a bus used as a common carrier.

(29) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:

(a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;

(b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(c) Improper or erratic traffic lane changes;

(d) Following the vehicle ahead too closely;

(e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;

(f) Driving a commercial motor vehicle without a CDL;

(g) Driving a commercial motor vehicle without a CDL in one's possession or refusing to display a CDL upon request;

(h) Driving a commercial motor vehicle without the proper class of CDL or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or

(i) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.

(30) "State" means a state of the United States and the District of Columbia.

(31) "State police" means the Department of State Police of the Commonwealth of Kentucky.

(32) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn along a public highway, except devices moved by human or animal power, used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

Section 2. KRS 281A.050 is amended to read as follows:

The provisions of this chapter shall not apply to:

(1) Drivers of firefighting and other emergency equipment;

(2) Drivers of ***commercial motor***[~~military~~] vehicles if those persons are:

(a) Military personnel[~~ in uniform~~]; ***and***

(b) Operating the vehicles in pursuit of a military purpose;[~~ and~~

~~(c) Properly licensed by the military;~~]

(3) Drivers of ***farm*** vehicles that are:

(a) Used ***to transport agricultural products, farm machinery, or farm supplies to or from a farm***[~~exclusively in farm-to-market agricultural transportation~~];

(b) ***Not used in the operations of a common or contract motor carrier***[~~Operated in private carriage~~];

(c) Used within one hundred fifty (150) highway miles of the ***farmer's farm***[~~point of origin~~]; and

(d) Controlled and operated by a ***farmer, including operation by***[~~farmer's~~] employees or family members[~~ if the motor vehicle is controlled by a farmer~~]; and

(4) Drivers of vehicles that:

(a) Are designed as temporary living quarters for recreational, camping, or travel use; and

(b) Operate on their own motor power or are mounted on or drawn by another vehicle.

Section 3. KRS 281A.080 is amended to read as follows:

(1) Each employer shall require the applicant to provide the information specified in KRS 281A.070. He shall inform the applicant that the information provided may be used or the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.

(2) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial vehicle during any period in which the driver:

(a) Has had his commercial driver's license suspended, revoked, or canceled by any state;

(b) Is currently disqualified from driving a commercial vehicle;

(c) Is subject to an out of service order in any state;

(d) Has more than one (1) driver's license;[~~ or~~]

(e) Does not currently hold a valid commercial driver's license***; or***

(f) Is in violation of any of the railroad crossing offenses or conduct set forth in KRS 189.500, 189.560, or 189.565.

Section 4. KRS 281A.150 is amended to read as follows:

(1) Every person seeking a commercial driver's license or a commercial driver's instruction permit shall first apply in person to the circuit clerk of the county in which the applicant resides or in the county where the person is enrolled in a driver training school if the applicant is not a resident. The application shall be in the form prescribed by KRS 281A.140 as provided by the cabinet. Except as provided in KRS 281A.160(6), each time a person applies for a commercial driver's license, an instruction permit, or seeks to upgrade or change his commercial driver's license, the person shall be required to:

(a) Update the application; and

(b) Submit the appropriate fee to the circuit clerk.

(2) The cabinet shall set fees by administrative regulation, pursuant to KRS Chapter 13A, for the following applications that shall not exceed:

  (a) ***Except as provided in paragraph (g) of this subsection,*** forty dollars ($40) for each application for a commercial driver's license. The fee shall be based on the class, type of license, endorsement, restriction, or tests to be taken;

  (b) Thirty-five dollars ($35) for each application for a commercial driver's instruction permit;

  (c) Fifteen dollars ($15) for each application for a change or addition in class or type of license, endorsement, or restriction;

  (d) Forty dollars ($40) for each application for a duplicate if it is the first duplicate applied for within the time period for which the original license was issued. Sixty dollars ($60) for a second or subsequent duplicate applied for within the time period for which the original license was issued. The fees required for a duplicate shall be in addition to fees charged under subsection (2)(c) of this section;

  (e) Thirty-five dollars ($35) for each application for renewal of a commercial driver's license;

  (f) Sixty dollars ($60) for each application for a transfer of a commercial driver's license; and

  (g) Twenty dollars ($20) for each application for ***an initial and renewal***~~[a]~~ commercial driver's license with an "S" ***endorsement***~~[restriction for the following persons:~~

    ~~1. A person who operates a school bus;~~

    ~~2. A person who is employed by a mass transit authority created under the provisions of KRS Chapter 96A;~~

    ~~3. A person who drives a vehicle that is operated under a nonprofit bus certificate established pursuant to KRS 281.619;~~

    ~~4. A person who drives a vehicle registered pursuant to KRS 186.050(6); or~~

    ~~5. A person who drives a fixed route bus system vehicle that is operated by a public entity pursuant to the provisions of KRS Chapter 281]~~.

(3) All fees remitted to the clerk shall be nonrefundable regardless of whether the applicant completes the requirements for a commercial driver's license or is tested.

(4) All fees collected for the issuance of a commercial driver's license or a commercial driver's instruction permit shall be deposited into trust and agency accounts to be used exclusively for the administration and implementation of this chapter, except as prescribed in subsection (5) of this section. The accounts shall not lapse but shall be continuing from year to year.

(5) All fees collected pursuant to this section, shall be allocated between the Transportation Cabinet and Department of State Police, except a fifty cent ($0.50) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license permit. A three dollar ($3) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license.

(6) Any applicant who seeks reinstatement of his commercial driving privilege after a suspension, withdrawal, revocation, or disqualification shall pay a reinstatement fee of fifty dollars ($50) in addition to those fees required by subsection (2) of this section and shall satisfy the requirements of KRS 281A.160. This fee shall not be required if his commercial driving privilege was withdrawn only as a result of the withdrawal of his privilege to drive a noncommercial motor vehicle.

Section 5. KRS 281A.160 is amended to read as follows:

(1) (a) Except as provided in subsection (4) of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.

  (b) Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.

(2) (a) Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:

    1. An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills-testing fee of fifty dollars ($50); and

    2. An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a skills-testing fee of one hundred fifty dollars ($150).

  (b) There is created within the State Treasury a trust fund to be known as the State Police CDL skills-testing fund. The fund shall be administered by the State Police and shall receive all skills-testing and retesting fees collected under subsections (2)(a) and (6)(c) of this section, in addition to any grants, gifts, or appropriations of state or federal moneys and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The State Police CDL skills-testing fund shall be used by the State

Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills-testing process.

(c) The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than ten (10) days after the applicant has filed the application and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a retest.

(d) An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license, a valid CDL permit, and a current U.S. Department of Transportation physical card. A CDL-licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.

(3) A testing fee shall not be charged to an individual applying for a CDL with an "S" ***endorsement***~~[restriction]~~ as defined in KRS 281A.170.

(4) The State Police may authorize a third party to administer the skills test specified by this section if:

(a) The test is the same that would otherwise be administered by the state; and

(b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.

(5) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.

(6) (a) Applicants shall be permitted to take the skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.

(b) The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.

(c) An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week and pay a retest fee of fifty dollars ($50) before retaking a portion of this skills test again.

(d) Failure of an applicant to notify the State Police prior to missing an appointment for a skills test shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under paragraph (c) of this subsection for individual applicants. A missed appointment failure under this paragraph shall not be reported as a failure to the board.

(e) The provisions of KRS 281A.150 notwithstanding, an application fee shall not be charged for each test that is retaken as a result of a failing score.

(7) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(6) and shall receive his commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.

(8) (a) The commissioner of the Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.

(b) Within ninety (90) days of April 22, 2006, the State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(b) of this section.

Section 6. KRS 281A.170 is amended to read as follows:

(1) The commercial driver's license shall be marked "commercial driver's license" and "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include but is not limited to the following information:

(a) The name and present resident address of the licensee;

(b) The licensee's color photograph;

(c) A physical description of the licensee including sex, height, weight, and eye color;

(d) The licensee's date of birth;

(e) The licensee's signature;

(f) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;

(g) The name of this state;

(h) The dates between which the license is valid; and

(i) Any other information required by the cabinet, except for a person's Social Security number.

(2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.

(a) Classifications:

1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.

2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.

3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:

a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or

b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.

4. Class D - All other vehicles not listed in any other class.

5. Class E - Moped only.

6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.

(b) Endorsements:

1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.

2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.

3. "P" - Authorizes operation of vehicles carrying passengers.

4. "N" - Authorizes operation of tank vehicles.

5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.

6. "R" - Authorizes operation of all other endorsements not otherwise specified.

7. "S" - Authorizes operation of school buses.

(c) Restrictions:

1. "K" - Restricts the driver to operation of vehicles not equipped with airbrakes.

2. "I" - Restricts the driver to Kentucky intrastate commerce driving.

3. [~~"S" - Restricts the driver to school buses, church buses, buses operated by a mass transit authority created under the provisions of KRS Chapter 96A, buses operated under a nonprofit bus certificate established pursuant to KRS 281.619, and fixed route buses operated by a public entity pursuant to the provisions of KRS Chapter 281.~~

~~4.~~]"L" - Shall not include a Class "A" bus.

4.[~~5.~~] "J" - Shall not include a Class "A" or "B" bus.

5.[~~6.~~] "O" - Shall not include tractor, semitrailer style vehicles.

6.[~~7.~~] "Z" - Exempt intracity zones for commercial vehicles.

7.[~~8.~~] "0-9" - Other restrictions.

8.[~~9.~~] "A" - Restricts the driver to operation of vehicles equipped with an automatic transmission because the person conducted the required skills test in a commercial vehicle equipped with an automatic transmission. A person wanting to remove this restriction in order to operate a vehicle with a manual transmission shall be required to successfully complete a skills test while operating a commercial vehicle equipped with a manual transmission.

(3) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.

(4) A commercial driver's license issued to a resident pursuant to this chapter shall expire in four (4) years unless the license was issued to a resident under the age of twenty-one (21). A commercial driver's license issued to a person who is not a resident shall be issued for one (1) year and shall not be renewable. The fee for a commercial driver's license issued to a nonresident shall be the same as the fee charged to a resident.

(5) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.

(6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.

Section 7. KRS 281A.190 is amended to read as follows:

(1) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:

(a) Driving or being in physical control of a motor vehicle under the influence of alcohol or a controlled substance;

(b) Driving or being in physical control of a motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;

(c) Leaving the scene of an accident involving a motor vehicle driven by a person who holds or is required to hold a CDL;

(d) Using a motor vehicle in the commission of any felony listed in KRS 186.560;

(e) Refusing to submit to testing as required by KRS 281A.220 when driving a motor vehicle;

(f) Committing a first violation of driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or when the person is disqualified from operating a commercial motor vehicle; or

(g) Causing a fatality through negligent or criminal operation of a commercial motor vehicle.

(2) A person who holds or is required to hold a CDL shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal Motor Carrier Safety Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person who holds or is required to hold a CDL shall be disqualified for a period of three (3) years.

(4) Notwithstanding any other provisions of law, a period of suspension, revocation, or disqualification imposed under the provisions of this chapter shall not be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.

(5) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(6) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days ***consecutively*** if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

(7) A person who holds or is required to hold a CDL shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.

(8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his commercial driving privilege, subject to a hearing conducted in accordance with KRS 189A.107, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.

(9) If a person who holds or is required to hold a CDL is convicted of any of the railroad crossing offenses or conduct enumerated in KRS 189.500, 189.560, and 189.565, then the person shall be disqualified from operating a commercial motor vehicle for a period of:

(a) Sixty (60) days for the first offense;

(b) One hundred twenty (120) days for the second offense within a three (3) year period; and

(c) One (1) year for the third or subsequent offense within a three (3) year period.

(10) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting nonhazardous materials, then the person shall be disqualified from operating a commercial motor vehicle for a period of:

(a) Ninety (90) days for the first offense;

(b) One (1) year for the second offense in a separate incident within a ten (10) year period; and

(c) Three (3) years for the third or subsequent offense in a separate incident within a ten (10) year period.

(11) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting hazardous materials required to be placarded under the 49 U.S.C. sec. 5101 et seq., or operating a commercial motor vehicle designed to transport sixteen (16) or more passengers, including the driver, then the person shall be disqualified from operating a commercial motor vehicle for a period of:

(a) One hundred eighty (180) days for the first offense; and

(b) Three (3) years for the second or subsequent offense in a separate incident within a ten (10) year period.

(12) After disqualifying a commercial driver's license holder or suspending, revoking, or canceling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action within ten (10) days of receipt. After disqualifying a commercial driver's license holder or suspending, revoking, or canceling an out-of-state commercial driver's license holder's privilege to operate a commercial motor vehicle for at least sixty (60) days, the Transportation Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, cancellation, or revocation.

(13) Upon notice from the Federal Motor Carrier Safety Administration that a driver has been determined to be an imminent hazard and has been disqualified from operating a commercial motor vehicle, the cabinet shall act in accordance with the provisions of 49 C.F.R. sec. 383.52. The cabinet shall notify the driver of the disqualification, which shall not exceed one (1) year in duration, and of the right to appeal to the Federal Motor Carrier Safety Administration in accordance with 49 C.F.R. sec. 383.52.

Section 8. KRS 281A.240 is amended to read as follows:

(1) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle in this state if the person has a valid commercial driver's license or commercial driver's license instruction permit issued by any state***, Canada, or Mexico*** in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's license, if the person's driving privilege is not suspended, revoked, or canceled; and if the person is not disqualified from driving a commercial motor vehicle or subject to an out-of-service order.

(2) The Commonwealth of Kentucky shall give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this chapter as if they occurred in this state. Except as otherwise provided, when in this chapter reference is made to an offense which is a violation of a provision of this chapter or other Kentucky state law, the reference shall be deemed to include offenses under any local ordinance, any federal law, any law or local ordinance of another state substantially similar to any provision of the Kentucky Revised Statutes.

Section 9. KRS 281A.270 is amended to read as follows:

The Transportation Cabinet may adopt in whole or in part those federally mandated requirements set forth in Title 49, Code of Federal Regulations, Part 383, notwithstanding the fact that the provisions may conflict with other provisions of this chapter.[~~The authority granted in this section shall expire January 1, 1992.~~]

HJR 84, A JOINT RESOLUTION requiring that a statute of Bert T. Combs be erected in Powell County, on Kentucky Route 213, on the surplus land across from the U.S. Post Office in the community of Stanton.

WHEREAS, Bert T. Combs was born in Manchester, KY on August 13, 1911, the son of Martha and Stephen Combs; and

WHEREAS, Bert T. Combs served in the United States Army in World War II; and

WHEREAS, Bert T. Combs was a Kentucky Court of Appeals Judge from 1951 to 1955; and

WHEREAS, Bert T. Combs served as Governor of Kentucky from 1959 to 1963; and

WHEREAS, during the Bert T. Combs administration as Governor, a major contribution of building The Mountain Parkway, later named for Bert T. Combs, opened Eastern Kentucky to the rest of the state; and

WHEREAS, Bert T. Combs, in 1960, created a merit system for state government workers, helping to ensure a stable and professional state employee workforce; and

WHEREAS, Bert T. Combs, in 1960 created Kentucky's first Human Rights Commission and ordered all public accommodations to be desegregated; and

WHEREAS, Bert T. Combs served as a Judge on the United States Court of Appeals for the Sixth Circuit from 1967 to 1970; and

WHEREAS, Bert T. Combs was a member of several organizations, including the American Bar Association, Order of the Coif, Freemasons, Shriners, and Phi Delta Phi; and

WHEREAS, the community of Stanton has commissioned a statue in memory of the life and accomplishments of Bert T. Combs, to be placed in a location of honor entering the community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, commend and applaud former Governor Bert T. Combs for his efforts and accomplishments in improving the lives of ordinary Kentuckians and moving the state forward.

Section 2. Within 30 days of the effective date of this Resolution, the Kentucky Transportation Cabinet shall erect the statue of Bert T. Combs, provided by the community of Stanton, in Powell County on Kentucky Route 213, on the surplus land across from the U.S. Post Office in the community of Stanton.

The Committee Amendment No. 1 Title to **HJR 84** is as follows:

HJR 84, By amending the title to read; "A JOINT RESOLUTION requiring that a statue of Bert T. Combs be erected in Powell County, on Kentucky Route 213, on the surplus land across from the U.S. Post Office in the community of Stanton.".

HCR 122, A CONCURRENT RESOLUTION opposing the creation of a national identification card.

WHEREAS, the citizens of Kentucky recognize the Constitution of the United States as our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of privacy and from unreasonable searches; and

WHEREAS, each of Kentucky's duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the Commonwealth of Kentucky; and

WHEREAS, the citizens of Kentucky denounce and condemn all acts of terrorism by any entity, wherever the acts occur; and

WHEREAS, terrorist attacks against Americans, such as those that occurred on September 11, 2001, have necessitated the crafting of effective laws to protect citizens of the United States and others from terrorist attacks; and

WHEREAS, any new security measures of federal, state, and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent citizens of Kentucky and the United States; and

WHEREAS, the REAL ID Act of 2005 creates a national identification card by requiring uniform information be placed on every state drivers' licenses, requiring this information be machine readable in a standard format, and requiring this card for any federal purpose including air travel; and

WHEREAS, REAL ID will be a costly unfunded mandate on the state; and individual state costs estimates include $232 million from Virginia, $97 million from Washington, and $100 million from Pennsylvania; and media reports indicate that the Act will cost at least $9 billion to implement nationally; and

WHEREAS, REAL ID requires the creation of a massive public sector database containing the driver's license information on every American, accessible to every state motor vehicle employee and state and federal law enforcement officer; and

WHEREAS, REAL ID enables the creation of an additional massive private sector database of driver's license information gained from scanning the machine-readable information contained on every drivers' license; and

WHEREAS, these public and private database are certain to contain numerous errors and false information, creating significant hardship for Americans attempting to verify their identity in order to fly, open a bank account, or perform any of the numerous functions required to live in the United States today; and

WHEREAS, the Federal Trade Commission estimates that 10 million Americans are victims of identity theft annually and these thieves are increasingly targeting motor vehicle departments; REAL ID will enable the crime of identity theft by making the personal information of all Americans, including name, date of birth, gender, driver's license or identification card number, digital photograph, address, and signature accessible from tens of thousands of locations; and

WHEREAS, REAL ID requires the drivers' licenses to contain actual home addresses in all cases and makes no provision for securing personal information for individuals in potential danger such as undercover police officers and victims of stalking or criminal harassment; and

WHEREAS, REAL ID contains no exemption for religion, limits religious liberty, and tramples the beliefs of groups such as the Amish and some Evangelical Christians; and

WHEREAS, REAL ID contains onerous record verification and retention provisions that place unreasonable burdens on both local DMV and on 3rd parties required to verify records; and

WHEREAS, REAL ID will likely place enormous burdens on consumers seeking a new driver's license including longer lines, higher costs, increased document requests, and a waiting period; and

WHEREAS, REAL ID was passed without sufficient deliberation by Congress and never received a hearing by any

Congressional committee or any vote solely on its own merits; and

WHEREAS, REAL ID eliminated a process of negotiated rulemaking initiated under the Intelligence Reform and Terrorism Prevention Act of 2004, which had convened federal, state, and local policy makers, privacy advocates, and industry experts to solve the problem of misuse in identity documents; and

WHEREAS, more than 600 organizations opposed the passage of REAL ID; and

WHEREAS, REAL ID would provide little security benefit and still leave identification systems open to insider fraud, counterfeit documentation, and database failures; and

WHEREAS, the Kentucky General Assembly supports the government of the United States in its campaign against terrorism and affirms the commitment of the United States that the campaign not be waged at the expense of essential civil rights and liberties of citizens of this country that are protected in the United States Constitution and the Bill of Rights; and

WHEREAS, it is the policy of the citizens of Kentucky to oppose any portion of the REAL ID Act that violates the rights and liberties guaranteed under the Kentucky Constitution or the United States Constitution, including the Bill of Rights;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky General Assembly urges the Congressional delegation of the United States Congress to support measures to repeal the REAL ID Act of 2005.

Section 2. The Kentucky General Assembly shall not encourage the misuse of driver's license information by contracting with private parties who purchase and collect such information for resale purposes.

Section 3. The Kentucky General Assembly encourages the Attorney General of Kentucky to review the security and privacy protections surrounding all personal information collected by Kentucky and to recommend improvements to those procedures.

Section 4. The Clerk of the House of Representatives shall send copies of this Concurrent Resolution to the Clerk of the House of Representatives of the United States, the Clerk of the Senate of the United States, and each member of the Kentucky delegation to the Congress of the United States.

The Committee on Local Government reported **HB 116,** with Committee Substitute attached thereto, **HB 122, HB 177, HB 243,** with Committee Substitute and Committee Amendment attached thereto, **HB 245, HB 281,** with Committee Substitute attached thereto, **HB 297, HB 355, HB 357, HB 376, HB 448,** and **HB 514** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 116, AN ACT relating to the provision of services by county interlocal agreements making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.250 is amended to read as follows:

(1) Any[~~such~~] agreement ***made pursuant to KRS 65.210 to 65.300*** shall specify the following:

(a) The duration of the agreement;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with a statement of the powers delegated thereto; provided such legal entity may be legally created;

(c) The purpose or purposes of such legal or administrative entity;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor; said agreement for financing the joint or cooperative undertaking shall include agreements relative to the respective responsibilities of the units of government involved for the payment of the employer's share involved in any pertinent pension plan or plans, if any, provided for by KRS 65.280;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) ***For any agreement that provides for police or fire protection services, emergency medical services, or rescue services, the agreement shall specify:***

1. The chain of command for units providing these services;

2. The method or methods of communication between jurisdictions and units providing these services; and

3. Any provisions for the purchase, storage, and transportation of any devices or equipment necessary for cross-communication or the interoperability of equipment between units of differing jurisdictions providing these services; and

(g) Any other necessary and proper matters.

(2) In the event that the agreement does not establish a separate legal or administrative entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs (a), (c), (d), (e)***, (f),*** and ***(g)***[~~(f)~~] enumerated in

subsection (1) of this section, contain the following:

(a) Provision for an administrator or joint board responsible for administering the joint or cooperative undertaking. In the event that a joint board is established, the public agencies party to the agreement shall be represented thereon;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

Section 2. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3)***, (4),*** and ***(5)***~~[(4)]~~ of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state~~[, except for interlocal agreements between cities, counties, charter counties, urban county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government]~~. The Attorney General~~[or the Department for Local Government]~~ shall approve any agreement submitted to ***him or her***~~[them]~~ under this subsection unless ***he or she finds***~~[they find]~~ that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General~~[or the Department for Local Government]~~ shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) ***Except as provided in subsections (4) and (5) of this section, every agreement made between cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, and special districts upon approval of the fiscal court, pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Department for Local Government, which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth. The Department for Local Government shall approve any agreement submitted to it under this subsection, unless it finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within sixty (60) days of its submission shall constitute approval of the agreement. The Department for Local Government shall notify the appropriate agencies within the Transportation Cabinet of any valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries for the purposes of receiving funds in accordance with Section 10 of this Act.***

(4) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(5)~~[(4)]~~ Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 3. KRS 68.245 is amended to read as follows:

(1) The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b) The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%)***, five percent (5%), six percent (6%), or seven percent (7%)*** over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the Department of Revenue upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall

hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for testimony.

(6) (a) ***1.*** That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

2. That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, of more than five percent (5%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, for counties that have entered into valid interlocal agreements pursuant to Section 10 of this Act, shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

3. That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, of more than six percent (6%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, for counties that have entered into valid interlocal agreements pursuant to three (3) or more sections of Sections 4, 6, 7, 8, and 9 of this Act, but excluding Section 10 of this Act, shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

4. That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, of more than seven percent (7%) over the

amount of revenue produced by the compensating tax rate defined in KRS 132.010, for counties that have entered into valid interlocal agreements pursuant to three (3) or more sections of Sections 4, 6, 7, 8, 9, and 10 of this Act, shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010***:***[~~,~~]

1. ***Of*** more than four percent (4%) ***for counties adopting none of the provisions of this Act,***

2. Of more than five percent (5%) for counties subject to the provisions of paragraph (a)2. of this section; or

3. Of more than six percent (6%) for counties subject to the provisions of paragraph (a)3. of this section; or

4. Of more than seven percent (7%) for counties subject to the provisions of paragraph (a)4. of this section;[~~over the amount of revenue produced by the compensating tax rate defined in KRS 132.010,~~]

cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%)***, five percent (5%), six percent (6%), or seven percent (7%)*** over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 4. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health and Family Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection ***(4)***[~~(3)~~] of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the executive director of the Office of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) ***In counties that have entered into a valid interlocal agreement in accordance with KRS 65.210 to 65.300, concerning the provision of fire protection services across a participating county's boundaries, the commission shall allot on an annual basis an additional sum of one thousand six hundred fifty dollars ($1,650) to qualifying volunteer fire***

departments in the following categories:

(a) Fire protection districts organized pursuant to KRS Chapter 75;

(b) County districts established under the authority of KRS 67.083; and

(c) Volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273.

The volunteer fire departments enumerated in paragraphs (a) to (c) of this subsection must be subjects of the interlocal agreement for the provision of fire protection services to be eligible for this aid.

(4) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection ***(5)***[~~(4)~~] of this section and shall comply with state laws applicable to capital construction projects.

(5)[~~(4)~~] Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary. ***The commission shall give preference to those departments that are subjects of valid interlocal agreements concerning the provision of fire protection services across county boundaries.***

(6)[~~(5)~~] Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(7)[~~(6)~~] Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(8)[~~(7)~~] The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(9)[~~(8)~~] The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(10)[~~(9)~~] Moneys withheld pursuant to subsection ***(9)***[~~(8)~~] of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(11)[~~(10)~~] If a volunteer fire department has met all of the requirements of subsection ***(10)***[~~(9)~~] of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less. ***For volunteer fire departments that are recipients of supplemental aid granted under subsection (3) of this section, the commission may authorize a reimbursement of equipment losses not***

exceeding twelve thousand dollars ($12,000) or the actual amount of the loss, whichever is less.

(12)[~~(11)~~] Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(13)[~~(12)~~] No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(14)[~~(13)~~] The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(15)[~~(14)~~] There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

(16)[~~(15)~~] For fiscal year 2004-2005 and each fiscal year thereafter, there is allotted one million dollars ($1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.

(17)[~~(16)~~] If funding is available from the fund established in KRS 95A.220, the Commission on Fire Protection Personnel Standards and Education may implement the following:

(a) A program to prepare emergency service personnel for handling potential man-made and non-man-made threats. The commission shall work in conjunction with the fire marshal's office and other appropriate agencies and associations to identify and make maps of gas transmission and hazardous liquids pipelines in the state;

(b) A program to provide and maintain a mobile test facility in each training region established by the Commission on Fire Protection Personnel Standards and Education with equipment to administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a firefighter's ability to perform the physical requirements necessary to be an effective and safe firefighter;

(c) A program to provide defensive driving training tactics to firefighters. The commission shall purchase, instruct in the use of, and maintain mobile equipment in each of the training regions, and fund expenses related to equipment replacement;

(d) A program to annually evaluate equipment adequacy and to provide for annual physical examinations for instructors, adequate protective clothing and personal equipment to meet NFPA guidelines, and to establish procedures for replacing this equipment as needed;

(e) A program to establish a rotational expansion and replacement program for mobile fleet equipment currently used for training and recertification of fire departments;

(f) A program to expand and update current EMS, first responder, EMT, and paramedic training and certification instruction; and

(g) A program to purchase thermal vision devices to comply with the provisions of KRS 95A.400 to 95A.440.

Section 5. KRS 132.017 is amended to read as follows:

(1) As used in this section, "local governmental entity" includes a county fiscal court and legislative body of a city, urban-county government, consolidated local government, charter county government, or other taxing district.

(2) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a local governmental entity or district board of education subject to recall as provided for in KRS 68.245, 132.023, 132.027, and 160.470, shall go into effect forty-five (45) days after its passage.

(b) During the forty-five (45) days next following the passage of the ordinance, order, resolution, or motion, any five (5) qualified voters who reside in the area where the tax levy will be imposed may commence petition proceedings to protest the passage of the ordinance, order, resolution, or motion by filing with the county clerk an affidavit stating that they constitute the petition committee and that they will be responsible for circulating the petition and filing it in the proper form within forty-five (45) days from the passage of the ordinance, order, resolution, or motion. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. Upon receipt of the affidavit, the county clerk shall:

1. At the time of filing of the affidavit, notify the petition committee of all statutory requirements for the filing

of a valid petition under this section;

2. At the time of the filing of the affidavit, notify the petition committee that the clerk will publish a notice identifying the tax levy being challenged and providing the names and addresses of the petition committee in a newspaper of general circulation within the county, if such publication exists, if the petition committee remits an amount equal to the cost of publishing the notice determined in accordance with the provisions of KRS 424.160 at the time of the filing of the affidavit. If the petition committee elects to have the notice published, the clerk shall publish the notice within five (5) days of receipt of the affidavit; and

3. Deliver a copy of the affidavit to the appropriate local governmental entity or district board of education.

(c) The petition shall be filed with the county clerk within forty-five (45) days of the passage of the ordinance, order, resolution, or motion. All papers of the petition shall be uniform in size and style and shall be assembled in one (1) instrument for filing. Each sheet of the petition shall contain the names of voters from one (1) voting precinct only, and shall include the name, number and designation of the precinct in which the voters signing the petition live. The inclusion of an invalid signature on a page shall not invalidate the entire page of the petition, but shall instead result in the invalid signature being stricken and not counted. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name, street address, and Social Security number or birthdate of the person signing. The petition shall be signed by a number of registered and qualified voters residing in the affected jurisdiction equal to at least ten percent (10%) of the total number of votes cast in the last preceding presidential election.

(d) Upon the filing of the petition with the county clerk, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (3) of this section is held, or until the petition is finally determined to be insufficient and no further action may be taken pursuant to paragraph (h) of this subsection.

(e) The county clerk shall immediately notify the presiding officer of the appropriate local governmental entity or district board of education that the petition has been received and shall, within thirty (30) days of the receipt of the petition, make a determination of whether the petition contains enough signatures of qualified voters to place the ordinance, order, resolution, or motion before the voters.

(f) If the county clerk finds the petition to be sufficient, the clerk shall certify to the petition committee and the local governmental entity or district board of education within the thirty (30) day period provided for in paragraph (e) of this subsection that the petition is properly presented and in compliance with the provisions of this section, and that the ordinance, order, resolution, or motion levying the tax will be placed before the voters for approval.

(g) If the county clerk finds the petition to be insufficient, the clerk shall, within the thirty (30) day period provided for in paragraph (e) of this subsection, notify, in writing, the petition committee and the local governmental entity or district board of education of the specific deficiencies found. Notification shall be sent by certified mail and shall be published at least one (1) time in a newspaper of general circulation within the county containing the local governmental entity or district board of education levying the tax or, if there is no such newspaper, shall be posted at the courthouse door.

(h) A final determination of the sufficiency of a petition shall be subject to final review by the Circuit Court of the county in which the local governmental entity or district board of education is located, and shall be limited to the validity of the county clerk's determination. Any petition challenging the county clerk's final determination shall be filed within ten (10) days of the issuance of the clerk's final determination.

(i) The local governmental entity***, county fiscal court acting pursuant to the provisions of Section 3 of this Act,*** or district board of education may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending the ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%)***, or, in the case of a county acting pursuant to Section 3 of this Act exclusive of revenue from new property as defined in KRS 132.010, more than five percent (5%), six percent (6%), or seven percent (7%)*** over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. The action by the local governmental entity or district board of education shall be valid only if taken within fifteen (15) days following the date the clerk finds the petition to be sufficient.

(3) (a) If an election is necessary under the provisions of subsection (2) of this section, the county fiscal court, legislative body of a city, urban-county government, consolidated local government, or other taxing district shall cause to be submitted to the voters of the county, district, consolidated local government, or urban-county at the next regular election, the question as to whether the property tax rate shall be levied. The question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election.

(b) If an election is necessary for a school district under the provisions of subsection (2) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than thirty-five (35) days nor more than forty-five (45) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether the property tax rate shall be levied. If the election is held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The cost of a called common school election shall be borne by the school district holding the election. Any called common school election shall comply with the provisions of KRS 118.025.

(c) In an election held under paragraph (a) or (b) of this subsection, the question shall be so framed that the voter may by his or her vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the ordinance, order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the ordinance, order, resolution, or motion shall become effective.

(d) If the ordinance, order, resolution, or motion fails to pass pursuant to an election held under paragraph (a) or (b) of this subsection, the property tax rate which will produce four percent (4%)***, or, in the case of a county acting pursuant to Section 3 of this Act, five percent (5%), six percent (6%), or seven percent (7%),*** more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the local governmental entity or district board of education.

(4) Notwithstanding any statutory provision to the contrary, if a local governmental entity or district board of education has not established a final tax rate as of September 15, due to the recall provisions of this section, KRS 68.245, 132.027, or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by that date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(5) If a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(6) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

Section 6. KRS 311A.155 is amended to read as follows:

(1) There shall be an emergency medical services grant program to provide funding to each county for the direct operation of emergency medical services, including but not limited to purchase or lease of ambulances or equipment. ***The board shall grant funding preferences to counties that enter into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the provision of emergency services across participating county boundaries.*** Funds available shall not be used to fund personnel or consultant salaries.

(2) Funds appropriated to or received by the emergency medical services grant program shall be placed in a trust and agency account in the State Treasury and shall not lapse.

(3) The board shall administer the emergency medical services grant program and may promulgate administrative regulations, which shall include but not be limited to funding criteria necessary for its implementation and operation.

(4) Twenty percent (20%) of the funds received each fiscal year for the grant program may be withheld from general distribution and shall be distributed for emergency purposes only.

(5) Grants may be made each fiscal year to each county fiscal court determined to be eligible by the board for distribution to public ambulance services operated by or for the county. A county may keep funds appropriated to them for a period of two (2) years, if desired, for expenditure for authorized purposes. At the end of two (2) years from the date of the receipt of the grant, the county shall return any funds remaining unexpended to the emergency medical services grant fund. Each expenditure made by the fiscal court from grant funds provided to the county shall be documented, with appropriate receipts or other documents, and a copy of each receipt or other document shall be provided to the board to verify that the expenditure was proper. The board shall require reimbursement to the emergency medical services fund by the county, with interest at a rate of twenty percent (20%) annually, for any funds expended for an unauthorized purpose. If the county fails or refuses to reimburse the fund, the board shall notify the Attorney General, who shall seek appropriate civil and criminal remedies.

(6) The board shall, annually, by January 1, promulgate administrative regulations specifying items of equipment and other authorized expenditures for the upcoming fiscal year. No funds shall be provided to the county until after the start of the fiscal year.

(7) The board may, in the event of a documented situation which the board considers to be an emergency and beyond the ability of the county to pay, provide emergency funding to the fiscal court for an ambulance or authorized equipment which has been damaged or destroyed. Normal replacement of an ambulance or equipment shall not be considered an emergency. The amount of funding that may be provided by the board shall not exceed ten thousand dollars ($10,000). ***In counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the provision of emergency services across participating county boundaries, the emergency funding to the fiscal courts for an ambulance or authorized equipment which has been damaged or destroyed shall not exceed twelve thousand dollars ($12,000).*** Only one (1) emergency funding request shall be granted for any county in each fiscal year. The amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year. ***In counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the provision of emergency services across participating county boundaries, eighty percent (80%) of the amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year.***

Section 7. KRS 39C.020 is amended to read as follows:

Supplementary state funds appropriated to the division shall be allocated by the division to local emergency management agencies on a reimbursement basis in amounts not to exceed fifty percent (50%) of the total local funds expended by the local agencies in any given year for the institution, administration, or support of the comprehensive emergency management programs of the city, county, urban-county government or charter county government. ***Supplementary state funds shall be allocated by the division to regional emergency management districts established by valid interlocal agreements in accordance with KRS 65.210 to 65.300 on a reimbursement basis in amounts not to exceed sixty percent (60%) of the total expended by the regional agency in any given year for the institution, administration, or support of the comprehensive emergency management programs of the regional emergency management districts.***

Section 8. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys from the fund shall be used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. When determining the distribution of the moneys relating to training, the need of the applicant shall be one (1) of the criteria considered by the board. Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this subsection may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county***, or a group of counties acting pursuant to a valid interlocal agreement entered into in accordance with KRS 65.210 to 65.300 for the provision of an animal control and care program***:

  (a) Employs, appoints, or contracts with an animal control officer, or contracts with an entity that employs, appoints, or contracts with an animal control officer, as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

  (b) Maintains an animal shelter, enters into an intergovernmental agreement for the establishment of a regional animal shelter, or contracts with an entity authorized to maintain sheltering and animal control services, to provide services that:

    1. Segregate male and female animals by species in runs and holding areas;

    2. Provide separate runs or holding areas for ill or injured animals. An ill or injured animal shall be treated with proper veterinary care or euthanized;

    3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;

    4. Provide holding areas with protection from the weather, including heated quarters during cold weather. Holding areas shall be free of debris or standing water; shall provide adequate lighting, ventilation, and sanitary conditions to promote a safe, healthy environment; and shall provide adequate space to allow for normal movement, including standing to full height, sitting, turning, and lying down in a natural position without coming in contact with the top or sides of the enclosure or another animal;

    5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material;

    6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;

    7. Employ euthanasia methods specified as acceptable for that species by the most recent report of the American Veterinary Medical Association Panel on Euthanasia;

    8. Provide potable, uncontaminated water to every animal at all times, and palatable, uncontaminated food daily; and

    9. Maintain a record on each animal impounded. Records shall be maintained for a period of two (2) years and shall include:

      a. Date impounded;

b. Location found or picked up;

c. Sex of animal and spay or neuter status, if known;

d. Breed or description, and color; and

e. Date reclaimed, adopted, or euthanized.

(4) Counties***, or groups of counties acting pursuant to KRS 65.210 to 65.300,*** submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of animal control officers or other personnel. ***The Commissioner shall grant preference to those counties operating animal control and care programs pursuant to a valid interlocal agreement entered into in accordance with KRS 65.210 to 65.300 for the provision of those services.*** Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

Section 9. KRS 224.43-505 is amended to read as follows:

(1) A trust fund known as the Kentucky pride fund is hereby established in the State Treasury to receive money collected from environmental remediation fees established in KRS 224.43-500. The fund shall be used to accomplish the purposes established in this section. Any money accruing to the fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(2) The cabinet shall administer the Kentucky pride fund as provided by this section and any administrative regulations promulgated pursuant thereto. Money from the fund received by the cabinet shall be distributed as follows:

(a) Five million dollars ($5,000,000) of the money deposited into the fund each year shall be retained by the cabinet, subject to the following conditions:

1. The cabinet may use up to two and one-half million dollars ($2,500,000) of the money deposited into the fund as necessary for direct costs associated with site identification, characterization, and corrective action assessments of solid waste disposal sites and facilities that have ceased accepting waste before July 1, 1992, including former permitted municipal solid waste disposal facilities or abandoned solid waste disposal sites or facilities. The cabinet shall prioritize the sites and facilities based on risks to human health, safety, and the environment, and develop an implementation plan for closure and remediation of those sites and facilities. Funds may be utilized to begin design and implementation of proper closure and corrective action for those sites and facilities with unabated pending violations.

2. The cabinet shall suspend until July, 2006, enforcement activity regarding landfill closure and remediation obligations against formerly permitted municipal solid waste disposal facilities owned by a city or county that ceased accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.

3. Two and one-half million dollars ($2,500,000) per year shall be used to pay debt service on bonds sold by the Kentucky Infrastructure Authority in the amount of at least twenty-five million dollars ($25,000,000), the proceeds from which were deposited into the Kentucky pride fund established in this section and utilized for undertaking closure and corrective action at formerly permitted solid waste disposal facilities or abandoned solid waste sites or facilities that ceased accepting waste prior to July 1, 1992, which pose the most significant environmental or human health risk. Moneys not appropriated for the identification and characterization of orphaned or abandoned landfills, or debt service, may be used for the elimination of illegal open dumps, direct costs associated with the closure of orphaned landfills, recycling grants, household hazardous waste grants, or additional debt service.

(b) The interest on all moneys deposited into the fund, including unused debt services, shall be distributed annually in an amount not to exceed one million dollars ($1,000,000) to the Kentucky Environmental Education Council for implementation of the environmental education center component of the Environmental Education Master Plan.

(c) The remaining balance of the funds from the environmental remediation fee established in KRS 224.43-500, plus any unspent interest revenues, shall be utilized by the cabinet for grants to counties for the elimination of illegal open dumps and to establish a recycling and household hazardous waste grants program. Any county, waste management district, city, urban-county government, or other political subdivision of the state shall be eligible to apply for recycling and household hazardous waste grants under this program. ***The cabinet shall grant preference to those counties that have entered into valid interlocal***

agreements pursuant to KRS 65.210 to 65.300 for the elimination of illegal open dumps and to establish a recycling and household hazardous waste grants program.

(d) Two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the road fund established in KRS 48.010(13)(g) and two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the highway construction contingency fund to the Kentucky pride fund established in this section, to be reserved and distributed annually for anti-litter control programs with distributions to be made as follows:

1. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;

2. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;

3. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on the county's population as a percentage of the total population of the Commonwealth at the time of distribution;

4. Of the moneys apportioned to counties on the basis of miles of public roads and population as provided for in subparagraphs 1. and 3. of this paragraph, the cabinet shall provide to the participating incorporated cities within the jurisdiction of each respective county which, by ordinance or other means, provides municipal solid waste collection service, an amount of funds equal to the ratio of that city's total miles of public roads in the county and the ratio of that city's population to the population of the county, to be used for the purpose of litter cleanup on public roads within city boundaries;

5. Moneys received by counties and cities pursuant to this paragraph shall be applied for by November 1 of the year preceding the grant distribution and shall be used to meet obligations with respect to the litter cleanup of public roads required by the provisions of KRS 224.43-345; and

6. Litter abatement funding rejected or otherwise returned from the grant recipients shall be applied to the following year's allotment for litter abatement grants.

(3) Any county may apply for a grant for the elimination of illegal open dumps subject to the following provisions:

(a) The cabinet first shall prioritize expenditures from this fund among those counties with approved solid waste management plans in order to address those illegal open dumps posing the most significant public health and environmental risks. ***The cabinet shall grant preference to counties that have entered into valid interlocal agreements pursuant to KRS 65.210 to 65.300 for providing across county boundaries for the elimination of illegal open dumps***; and

(b) The cabinet shall provide grants to counties for eliminating illegal open dumps. To be eligible for grant funding, the applicant shall:

1. Establish an effective universal municipal solid waste collection service that is available to all county residences and businesses;

2. Employ a solid waste coordinator with enforcement powers;

3. Remain in compliance with an approved solid waste management plan under this chapter;

4. Enter into agreement with the cabinet to provide a twenty-five percent (25%) match which may be in kind to the grant amount and comply with the grant criteria, except that the grant match may be waived for illegal dump cleanups projected to cost more than fifty thousand dollars ($50,000);

5. ***Enter into agreement with the cabinet to provide a twenty percent (20%) match which may be in kind to the grant amount and comply with the grant criteria, except that the grant match may be waived for illegal dump cleanups projected to cost more than sixty thousand dollars ($60,000). This subparagraph shall apply to counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the elimination of illegal open dumps.***

6. Agree to use all legal methods at their disposal to collect delinquent solid waste collection fees; and

7.~~[6.]~~ Establish a committee to be designated as the clean county committee, composed of representatives from business, schools, agriculture, homemakers, and other concerned citizens, to increase awareness and develop education and enforcement strategies to keep the county free of litter and illegal open dumps.

(4) The cabinet shall impose the following requirements for recycling and household hazardous waste management grants to counties, waste management districts, cities, urban-county governments, or other political subdivisions of the state:

(a) Each grantee shall provide a twenty-five percent (25%) match to the grant amount which may be in kind and shall comply with the grant criteria;

(b) ***Each grantee shall provide a twenty percent (20%) match to the grant amount which may be in kind and shall comply with the grant criteria. This paragraph shall apply to counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for recycling and household hazardous waste management programs.***

(c) Each grantee shall demonstrate that the proposed project will remain financially viable after grant funds have been expended;

(d)[~~(c)~~]The grantee shall demonstrate that the service added by the project is needed and would otherwise be unavailable within the proposed service area; and

(e)[~~(d)~~]Projects that create opportunities for regional recycling or regional household hazardous waste management shall be given priority.

(5) Counties that meet the requirements set out above in subsection (3) of this section shall be provided the following incentives and rewards by the cabinet:

(a) Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state-funded Community Rivers and Streams Program; and

(b) Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps.

(6) The cabinet shall be reimbursed for reasonable costs related to the implementation of the provisions of this section, not to exceed seven hundred fifty thousand dollars ($750,000) annually.

Section 10. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the Transportation Cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, eighteen and three-tenths percent (18.3%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2), and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 and 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

(4) On or after July 1, 1986, one-tenth of one percent (0.1%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660 and 234.320 shall be set aside for the purposes and functions of the Kentucky Transportation Center as established by KRS 177.375 to 177.380, except that the receipts provided to the center by this subsection shall not exceed one hundred ninety thousand dollars ($190,000) for any fiscal year.

(5) On or after July 1, 2007, one-fifth of one percent (0.2%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660(1) and (2), and 234.320 shall be set aside and appropriated for the construction, reconstruction, and maintenance of county roads and bridges in counties that have entered into a valid interlocal agreement in accordance with KRS 65.210 to 65.300 for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries. Counties shall not be eligible for these funds for the purpose of a single project of road and bridge construction, reconstruction, and maintenance. Counties shall be eligible for funding in a given fiscal year if they have entered into valid interlocal agreements by July 1 of that fiscal year.

(6) The cabinet shall allocate the funds set aside and appropriated in subsection (5) of this section to counties that have entered into valid multiyear interlocal agreements pursuant to KRS 65.210 to 65.300 for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries, but not for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, in accordance with the following formula:

(a) Twenty percent (20%) shall be apportioned equally among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries;

(b) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the rural population of each county subject to the interlocal agreement bears to the total rural population of the counties that have entered into the interlocal agreements in the Commonwealth of Kentucky. "Rural population," as used in this paragraph, means the population in a county outside cities, towns, and urban areas having a population of two thousand five hundred (2,500) or more as determined by the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census, and county population shall be determined the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census;

(c) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal

agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of two thousand five hundred (2,500) or more bears to the total mileage of these roads for the counties that have entered into the interlocal agreements in the Commonwealth of Kentucky; and

(d) Forty percent (40%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the square-mile rural area of each county bears to the total square-mile rural area for the counties that have entered into the interlocal agreements in the Commonwealth of Kentucky. "Rural area," as used in this paragraph, means that area of the county outside of cities, towns, and urban areas having a population of two thousand five hundred (2,500) or more as determined by the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census.

Participants in a valid multiyear interlocal agreement for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries, except for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, shall be eligible for receipt of these funds for a period of four (4) years after the approval of the interlocal agreement. No county shall be eligible for receipt of these funds more than once. The cabinet shall disburse these funds to eligible counties in twelve (12) equal monthly payments in a fiscal year, and eligible counties shall expend these funds within two (2) years of their receipt. Funds that have not been expended within two (2) years shall lapse back to the cabinet for allocation to further the purposes of subsection (5) of this section. Any funds designated within this subsection that remain unallocated at the end of a fiscal year shall lapse to the state road fund.

Section 11. KRS 75.440 is amended to read as follows:

(1) Only fire departments recognized and certified by the commission shall be eligible to receive volunteer fire department aid pursuant to KRS 95A.262(2), to receive low interest loans pursuant to KRS 95A.262***(15)***[~~(14)~~], or to participate in the Professional Firefighters Foundation Program, pursuant to KRS 95A.200 to 95A.290.

(2) A fire department created pursuant to KRS Chapter 273 which has been recognized and certified by the commission shall have the following rights and responsibilities:

(a) Designation as the only fire department authorized to protect property within its geographic area as filed with the commission and the county clerk, but the department may seek the assistance of other departments, and may make reciprocal aid contracts pursuant to KRS 75.050;

(b) Authority to secure water immediately for purposes of fighting a fire from any source, public or private. Upon request, the department shall compensate the owner in a reasonable amount for water used within six (6) months of use; and

(c) All rights identified in the Kentucky Revised Statutes for fire departments.

(3) The officers and firefighters, whether paid or unpaid, of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall select a chief. The appointment of the chief shall be subject to the approval of the governing board of the department. The chief shall establish a chain of command within the department. The chief, or the highest person available in the chain of command if the chief cannot be present, shall, subject to all state statutes as applicable, have the following rights and responsibilities:

(a) Authority to order the immediate evacuation of areas endangered by fire, a hazardous materials incident, or other impending disaster that constitutes a threat to life or property;

(b) Authority to be in charge of all fire ground operations at the scene of a fire or other emergency;

(c) Control of all department personnel while on duty; and

(d) Control of all equipment of the department.

(4) The chief of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall perform necessary actions to maintain recognition and certification of the department by the commission.

Section 12. The Department for Criminal Justice Training shall study and report on the effect on the Kentucky Law Enforcement Foundation Program fund of providing incentive pay to sheriffs' departments and county police departments that enter into interlocal agreements for the provision of law enforcement across county boundaries or, in the case of sheriffs' departments, the provision of tax collection services across county boundaries. The department shall examine the cost of:

(1) A five percent (5%);

(2) A ten percent (10%);

(3) A fifteen percent (15%); and

(4) A twenty percent (20%) addition to the supplemental pay provided by the Kentucky Law Enforcement Foundation Program fund to participating departments and peace officers. The department shall examine the range of participation levels by county police departments and sheriffs' departments in a supplement program for the provision of law enforcement or tax collection services across county boundaries and indicate which level of participation that the Department for Criminal Justice Training feels is the most likely level of participation in such a supplement program. The

department shall also provide a justification for its determination of the most likely level of participation. The department shall project the costs of the varying levels of supplement and participation from fiscal years 2007-2008 through 2010-2011. The department shall project funds available to the Kentucky Law Enforcement Foundation Program fund for fiscal years 2007-2008 through 2010-2011, if possible, and match these proposed fund levels versus the levels of cost estimated for a supplement program for the provision of law enforcement or tax collection services across county boundaries. Lastly, the department shall examine what, if any, insurance premium surcharge increases would be necessary to fund a supplement program for the provision of law enforcement or tax collection services across county boundaries, for a given level of participation in the program and a given level of supplemental pay. The Department for Criminal Justice Training shall submit its findings to the Legislative Research Commission by September 1, 2007.

Section 13. The Commission on Fire Protection Personnel Standards and Education shall study and report on the effect on the Firefighters Foundation Program fund of providing incentive pay to county professional fire departments that enter into interlocal agreements for the provision of fire protection services across county boundaries. The commission shall examine the cost of:

(1) A five percent (5%);

(2) A ten percent (10%);

(3) A fifteen percent (15%); and

(4) A twenty percent (20%) addition to the supplemental pay provided by Firefighters Foundation Program fund to participating county professional fire departments. The commission shall examine the range of participation levels by county professional fire departments in a supplement program for the provision of fire protection services across county boundaries and indicate which level of participation the Commission on Fire Protection Personnel Standards and Education feels is the most likely level of participation in such a supplement program. The commission shall also provide a justification for its determination of the most likely level of participation. The commission shall project the costs of the varying levels of supplement and participation from fiscal years 2007-2008 through 2010-2011. The commission shall project funds available to the Firefighters Foundation Program fund for fiscal years 2007-2008 through 2010-2011, if possible, and match these proposed fund levels versus the levels of cost estimated for a supplement program for the provision of fire protection services across county boundaries. Lastly, the commission shall examine what, if any, insurance premium surcharge increases would be necessary to fund a supplement program for the provision of fire protection services across county boundaries, for a given level of participation in the program and a given level of supplemental pay. The Commission on Fire Protection Personnel Standards and Education shall submit its findings to the Legislative Research Commission by September 1, 2007.

Section 14. In order to promote efficiency, this Act takes effect July 1, 2007.

The Committee Substitute to **HB 116** is as follows:

HB 116, AN ACT relating to the provision of services by county interlocal agreements making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.250 is amended to read as follows:

(1) Any[~~ such~~] agreement ***made pursuant to KRS 65.210 to 65.300*** shall specify the following:

  (a) The duration of the agreement;

  (b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with a statement of the powers delegated thereto; provided such legal entity may be legally created;

  (c) The purpose or purposes of such legal or administrative entity;

  (d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor; said agreement for financing the joint or cooperative undertaking shall include agreements relative to the respective responsibilities of the units of government involved for the payment of the employer's share involved in any pertinent pension plan or plans, if any, provided for by KRS 65.280;

  (e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

  (f) ***For any agreement that provides for police or fire protection services, emergency medical services, or rescue services, the agreement shall specify:***

    1. The chain of command for units providing these services;

    2. The method or methods of communication between jurisdictions and units providing these services; and

    3. Any provisions for the purchase, storage, and transportation of any devices or equipment necessary for cross-communication or the interoperability of equipment between units of differing jurisdictions providing these services; and

  (g) Any other necessary and proper matters.

(2) In the event that the agreement does not establish a separate legal or administrative entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs (a), (c), (d), (e)***, (f),*** and ***(g)***[~~(f)~~] enumerated in subsection (1) of this section, contain the following:

(a) Provision for an administrator or joint board responsible for administering the joint or cooperative undertaking. In the event that a joint board is established, the public agencies party to the agreement shall be represented thereon;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

Section 2. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3)***, (4),*** and ***(5)***[~~(4)~~] of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state[~~, except for interlocal agreements between cities, counties, charter counties, urban county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government~~]. The Attorney General[~~ or the Department for Local Government~~] shall approve any agreement submitted to ***him or her***[~~them~~] under this subsection unless ***he or she finds***[~~they find~~] that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General[~~ or the Department for Local Government~~] shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) ***Except as provided in subsections (4) and (5) of this section, every agreement made between cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, and special districts upon approval of the fiscal court, pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Department for Local Government, which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth. The Department for Local Government shall approve any agreement submitted to it under this subsection, unless it finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within sixty (60) days of its submission shall constitute approval of the agreement. The Department for Local Government shall notify the appropriate agencies within the Transportation Cabinet of any valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries for the purposes of receiving funds in accordance with Section 10 of this Act.***

(4) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(5)[~~(4)~~] Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 3. KRS 311A.155 is amended to read as follows:

(1) There shall be an emergency medical services grant program to provide funding to each county for the direct operation of emergency medical services, including but not limited to purchase or lease of ambulances or equipment. ***The board shall grant funding preferences to counties that enter into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the provision of emergency services across participating county boundaries.*** Funds available shall not be used to fund personnel or consultant salaries.

(2) Funds appropriated to or received by the emergency medical services grant program shall be placed in a trust and agency account in the State Treasury and shall not lapse.

(3) The board shall administer the emergency medical services grant program and may promulgate administrative regulations, which shall include but not be limited to funding criteria necessary for its implementation and operation.

(4) Twenty percent (20%) of the funds received each fiscal year for the grant program may be withheld from general distribution and shall be distributed for emergency purposes only.

(5) Grants may be made each fiscal year to each county fiscal court determined to be eligible by the board for distribution to public ambulance services operated by or for the county. A county may keep funds appropriated to them for a period of two (2) years, if desired, for expenditure for authorized purposes. At the end of two (2) years from the date of the receipt of the grant, the county shall return any funds remaining unexpended to the emergency medical services grant fund. Each

expenditure made by the fiscal court from grant funds provided to the county shall be documented, with appropriate receipts or other documents, and a copy of each receipt or other document shall be provided to the board to verify that the expenditure was proper. The board shall require reimbursement to the emergency medical services fund by the county, with interest at a rate of twenty percent (20%) annually, for any funds expended for an unauthorized purpose. If the county fails or refuses to reimburse the fund, the board shall notify the Attorney General, who shall seek appropriate civil and criminal remedies.

(6) The board shall, annually, by January 1, promulgate administrative regulations specifying items of equipment and other authorized expenditures for the upcoming fiscal year. No funds shall be provided to the county until after the start of the fiscal year.

(7) The board may, in the event of a documented situation which the board considers to be an emergency and beyond the ability of the county to pay, provide emergency funding to the fiscal court for an ambulance or authorized equipment which has been damaged or destroyed. Normal replacement of an ambulance or equipment shall not be considered an emergency. The amount of funding that may be provided by the board shall not exceed ten thousand dollars ($10,000). ***In counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the provision of emergency services across participating county boundaries, the emergency funding to the fiscal courts for an ambulance or authorized equipment which has been damaged or destroyed shall not exceed twelve thousand dollars ($12,000).*** Only one (1) emergency funding request shall be granted for any county in each fiscal year. The amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year. ***In counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the provision of emergency services across participating county boundaries, eighty percent (80%) of the amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year.***

Section 4. KRS 39C.020 is amended to read as follows:

Supplementary state funds appropriated to the division shall be allocated by the division to local emergency management agencies on a reimbursement basis in amounts not to exceed fifty percent (50%) of the total local funds expended by the local agencies in any given year for the institution, administration, or support of the comprehensive emergency management programs of the city, county, urban-county government or charter county government. ***Supplementary state funds shall be allocated by the division to regional emergency management districts established by valid interlocal agreements in accordance with KRS 65.210 to 65.300 on a reimbursement basis in amounts not to exceed sixty percent (60%) of the total expended by the regional agency in any given year for the institution, administration, or support of the comprehensive emergency management programs of the regional emergency management districts.***

Section 5. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys from the fund shall be used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. When determining the distribution of the moneys relating to training, the need of the applicant shall be one (1) of the criteria considered by the board. Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this subsection may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county***, or a group of counties acting pursuant to a valid interlocal agreement entered into in accordance with KRS 65.210 to 65.300 for the provision of an animal control and care program***:

(a) Employs, appoints, or contracts with an animal control officer, or contracts with an entity that employs, appoints, or contracts with an animal control officer, as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

(b) Maintains an animal shelter, enters into an intergovernmental agreement for the establishment of a regional animal shelter, or contracts with an entity authorized to maintain sheltering and animal control services, to provide services that:

1. Segregate male and female animals by species in runs and holding areas;

2. Provide separate runs or holding areas for ill or injured animals. An ill or injured animal shall be treated with proper veterinary care or euthanized;

3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs

and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;

4. Provide holding areas with protection from the weather, including heated quarters during cold weather. Holding areas shall be free of debris or standing water; shall provide adequate lighting, ventilation, and sanitary conditions to promote a safe, healthy environment; and shall provide adequate space to allow for normal movement, including standing to full height, sitting, turning, and lying down in a natural position without coming in contact with the top or sides of the enclosure or another animal;
5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material;
6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;
7. Employ euthanasia methods specified as acceptable for that species by the most recent report of the American Veterinary Medical Association Panel on Euthanasia;
8. Provide potable, uncontaminated water to every animal at all times, and palatable, uncontaminated food daily; and
9. Maintain a record on each animal impounded. Records shall be maintained for a period of two (2) years and shall include:
   a. Date impounded;
   b. Location found or picked up;
   c. Sex of animal and spay or neuter status, if known;
   d. Breed or description, and color; and
   e. Date reclaimed, adopted, or euthanized.

(4) Counties*, or groups of counties acting pursuant to KRS 65.210 to 65.300,* submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of animal control officers or other personnel. ***The Commissioner shall grant preference to those counties operating animal control and care programs pursuant to a valid interlocal agreement entered into in accordance with KRS 65.210 to 65.300 for the provision of those services.*** Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

Section 6. KRS 224.43-505 is amended to read as follows:

(1) A trust fund known as the Kentucky pride fund is hereby established in the State Treasury to receive money collected from environmental remediation fees established in KRS 224.43-500. The fund shall be used to accomplish the purposes established in this section. Any money accruing to the fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(2) The cabinet shall administer the Kentucky pride fund as provided by this section and any administrative regulations promulgated pursuant thereto. Money from the fund received by the cabinet shall be distributed as follows:

(a) Five million dollars ($5,000,000) of the money deposited into the fund each year shall be retained by the cabinet, subject to the following conditions:

1. The cabinet may use up to two and one-half million dollars ($2,500,000) of the money deposited into the fund as necessary for direct costs associated with site identification, characterization, and corrective action assessments of solid waste disposal sites and facilities that have ceased accepting waste before July 1, 1992, including former permitted municipal solid waste disposal facilities or abandoned solid waste disposal sites or facilities. The cabinet shall prioritize the sites and facilities based on risks to human health, safety, and the environment, and develop an implementation plan for closure and remediation of those sites and

facilities. Funds may be utilized to begin design and implementation of proper closure and corrective action for those sites and facilities with unabated pending violations.

2. The cabinet shall suspend until July, 2006, enforcement activity regarding landfill closure and remediation obligations against formerly permitted municipal solid waste disposal facilities owned by a city or county that ceased accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.

3. Two and one-half million dollars ($2,500,000) per year shall be used to pay debt service on bonds sold by the Kentucky Infrastructure Authority in the amount of at least twenty-five million dollars ($25,000,000), the proceeds from which were deposited into the Kentucky pride fund established in this section and utilized for undertaking closure and corrective action at formerly permitted solid waste disposal facilities or abandoned solid waste sites or facilities that ceased accepting waste prior to July 1, 1992, which pose the most significant environmental or human health risk. Moneys not appropriated for the identification and characterization of orphaned or abandoned landfills, or debt service, may be used for the elimination of illegal open dumps, direct costs associated with the closure of orphaned landfills, recycling grants, household hazardous waste grants, or additional debt service.

(b) The interest on all moneys deposited into the fund, including unused debt services, shall be distributed annually in an amount not to exceed one million dollars ($1,000,000) to the Kentucky Environmental Education Council for implementation of the environmental education center component of the Environmental Education Master Plan.

(c) The remaining balance of the funds from the environmental remediation fee established in KRS 224.43-500, plus any unspent interest revenues, shall be utilized by the cabinet for grants to counties for the elimination of illegal open dumps and to establish a recycling and household hazardous waste grants program. Any county, waste management district, city, urban-county government, or other political subdivision of the state shall be eligible to apply for recycling and household hazardous waste grants under this program. ***The cabinet shall grant preference to those counties that have entered into valid interlocal agreements pursuant to KRS 65.210 to 65.300 for the elimination of illegal open dumps and to establish a recycling and household hazardous waste grants program.***

(d) Two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the road fund established in KRS 48.010(13)(g) and two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the highway construction contingency fund to the Kentucky pride fund established in this section, to be reserved and distributed annually for anti-litter control programs with distributions to be made as follows:

1. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;

2. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;

3. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on the county's population as a percentage of the total population of the Commonwealth at the time of distribution;

4. Of the moneys apportioned to counties on the basis of miles of public roads and population as provided for in subparagraphs 1. and 3. of this paragraph, the cabinet shall provide to the participating incorporated cities within the jurisdiction of each respective county which, by ordinance or other means, provides municipal solid waste collection service, an amount of funds equal to the ratio of that city's total miles of public roads in the county and the ratio of that city's population to the population of the county, to be used for the purpose of litter cleanup on public roads within city boundaries;

5. Moneys received by counties and cities pursuant to this paragraph shall be applied for by November 1 of the year preceding the grant distribution and shall be used to meet obligations with respect to the litter cleanup of public roads required by the provisions of KRS 224.43-345; and

6. Litter abatement funding rejected or otherwise returned from the grant recipients shall be applied to the following year's allotment for litter abatement grants.

(3) Any county may apply for a grant for the elimination of illegal open dumps subject to the following provisions:

(a) The cabinet first shall prioritize expenditures from this fund among those counties with approved solid waste management plans in order to address those illegal open dumps posing the most significant public health and environmental risks***. The cabinet shall grant preference to counties that have entered into valid interlocal agreements pursuant to KRS 65.210 to 65.300 for providing across county boundaries for the elimination of illegal open dumps***; and

(b) The cabinet shall provide grants to counties for eliminating illegal open dumps. To be eligible for grant funding, the applicant shall:

1. Establish an effective universal municipal solid waste collection service that is available to all county residences and businesses;
2. Employ a solid waste coordinator with enforcement powers;
3. Remain in compliance with an approved solid waste management plan under this chapter;
4. Enter into agreement with the cabinet to provide a twenty-five percent (25%) match which may be in kind to the grant amount and comply with the grant criteria, except that the grant match may be waived for illegal dump cleanups projected to cost more than fifty thousand dollars ($50,000);
5. ***Enter into agreement with the cabinet to provide a twenty percent (20%) match which may be in kind to the grant amount and comply with the grant criteria, except that the grant match may be waived for illegal dump cleanups projected to cost more than sixty thousand dollars ($60,000). This subparagraph shall apply to counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for the elimination of illegal open dumps.***

6. Agree to use all legal methods at their disposal to collect delinquent solid waste collection fees; and

7.[~~6.~~] Establish a committee to be designated as the clean county committee, composed of representatives from business, schools, agriculture, homemakers, and other concerned citizens, to increase awareness and develop education and enforcement strategies to keep the county free of litter and illegal open dumps.

(4) The cabinet shall impose the following requirements for recycling and household hazardous waste management grants to counties, waste management districts, cities, urban-county governments, or other political subdivisions of the state:

(a) Each grantee shall provide a twenty-five percent (25%) match to the grant amount which may be in kind and shall comply with the grant criteria;

(b) ***Each grantee shall provide a twenty percent (20%) match to the grant amount which may be in kind and shall comply with the grant criteria. This paragraph shall apply to counties that have entered into valid interlocal agreements in accordance with KRS 65.210 to 65.300 for recycling and household hazardous waste management programs.***

(c) Each grantee shall demonstrate that the proposed project will remain financially viable after grant funds have been expended;

(d)[~~(c)~~]The grantee shall demonstrate that the service added by the project is needed and would otherwise be unavailable within the proposed service area; and

(e)[~~(d)~~]Projects that create opportunities for regional recycling or regional household hazardous waste management shall be given priority.

(5) Counties that meet the requirements set out above in subsection (3) of this section shall be provided the following incentives and rewards by the cabinet:

(a) Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state-funded Community Rivers and Streams Program; and

(b) Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps.

(6) The cabinet shall be reimbursed for reasonable costs related to the implementation of the provisions of this section, not to exceed seven hundred fifty thousand dollars ($750,000) annually.

Section 7. KRS 138.220 is amended to read as follows:

(1) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis shall be paid on all gasoline and special fuel received in this state. For the purposes of the allocations in KRS 177.320(1) and (2) and 177.365, the amount calculated under this subsection shall be reduced by the amount calculated in subsection (3) of this section. Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (4) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (4) of this section. In the event of a decrease in the average wholesale

price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than five cents ($0.05) on gasoline or two cents ($0.02) on special fuel and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsections (1) and (3) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

(3) Effective July 1, 2005, one cent ($0.01), and effective July 1, 2006, two and one-tenth cents ($0.021), of the tax collected under subsection (1) of this section shall be excluded from the calculations in KRS 177.320(1) and (2) and 177.365. The funds identified in this subsection shall be deposited into the state road fund.

(4) Effective with the calendar quarter beginning July 1, 1980, the department shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.

(5) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The department shall promulgate such rules and regulations to properly administer this provision.

(6) On or after July 1, 2007, if the average wholesale price of gasoline or special fuels causes an increase in the tax computed under subsection (1) of this section, then the amount of increase shall be set aside until nine hundred sixty thousand dollars ($960,000) annually has been set aside, to be used for the purposes authorized in subsections (5) and (6) of Section 8 of this Act. The set aside of the increase shall continue until the average wholesale price of gasoline and special fuels declines below the average wholesale price on July 1, 2007.

Section 8. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the Transportation Cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, eighteen and three-tenths percent (18.3%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660(1) and (2), and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 and 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

(4) On or after July 1, 1986, one-tenth of one percent (0.1%) of all funds arising from the imposition of taxes provided by KRS 138.220(1) and (2), 138.660 and 234.320 shall be set aside for the purposes and functions of the Kentucky Transportation Center as established by KRS 177.375 to 177.380, except that the receipts provided to the center by this subsection shall not exceed one hundred ninety thousand dollars ($190,000) for any fiscal year.

(5) On or after July 1, 2007, the amount determined in subsection (6) of Section 7 of this Act shall be set aside and appropriated for the construction, reconstruction, and maintenance of county roads and bridges in counties that have entered into a valid interlocal agreement in accordance with KRS 65.210 to 65.300 for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries. Counties shall not be eligible for these funds for the purpose of a single project of road and bridge construction, reconstruction, and maintenance. Counties shall be eligible for funding in a given fiscal year if they have entered into valid interlocal agreements by July 1 of that fiscal year.

(6) The cabinet shall allocate the funds set aside and appropriated in subsection (5) of this section to counties that have entered into valid multiyear interlocal agreements pursuant to KRS 65.210 to 65.300 for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries, but not for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, in accordance with the following formula:

(a) Twenty percent (20%) shall be apportioned equally among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries;

(b) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the rural population of each county subject to the interlocal agreement bears to the total rural population of the counties that have entered into the interlocal agreements in the Commonwealth of Kentucky. "Rural population," as used in this paragraph, means the population in a

county outside cities, towns, and urban areas having a population of two thousand five hundred (2,500) or more as determined by the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census, and county population shall be determined the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census;

(c) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of two thousand five hundred (2,500) or more bears to the total mileage of these roads for the counties that have entered into the interlocal agreements in the Commonwealth of Kentucky; and

(d) Forty percent (40%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the square-mile rural area of each county bears to the total square-mile rural area for the counties that have entered into the interlocal agreements in the Commonwealth of Kentucky. "Rural area," as used in this paragraph, means that area of the county outside of cities, towns, and urban areas having a population of two thousand five hundred (2,500) or more as determined by the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census.

Participants in a valid multiyear interlocal agreement for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries, except for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, shall be eligible for receipt of these funds for a period of four (4) years after the approval of the interlocal agreement. No county shall be eligible for receipt of these funds more than once. The cabinet shall disburse these funds to eligible counties in twelve (12) equal monthly payments in a fiscal year, and eligible counties shall expend these funds within two (2) years of their receipt. Funds that have not been expended within two (2) years shall lapse back to the cabinet for allocation to further the purposes of subsection (5) of this section. Any funds designated within this subsection that remain unallocated at the end of a fiscal year shall lapse to the state road fund.

Section 9. The Department for Criminal Justice Training shall study and report on the effect on the Kentucky Law Enforcement Foundation Program fund of providing incentive pay to sheriffs' departments and county police departments that enter into interlocal agreements for the provision of law enforcement across county boundaries or, in the case of sheriffs' departments, the provision of tax collection services across county boundaries. The department shall examine the cost of:

(1) A five percent (5%);

(2) A ten percent (10%);

(3) A fifteen percent (15%); and

(4) A twenty percent (20%) addition to the supplemental pay provided by the Kentucky Law Enforcement Foundation Program fund to participating departments and peace officers. The department shall examine the range of participation levels by county police departments and sheriffs' departments in a supplement program for the provision of law enforcement or tax collection services across county boundaries and indicate which level of participation that the Department for Criminal Justice Training feels is the most likely level of participation in such a supplement program. The department shall also provide a justification for its determination of the most likely level of participation. The department shall project the costs of the varying levels of supplement and participation from fiscal years 2007-2008 through 2010-2011. The department shall project funds available to the Kentucky Law Enforcement Foundation Program fund for fiscal years 2007-2008 through 2010-2011, if possible, and match these proposed fund levels versus the levels of cost estimated for a supplement program for the provision of law enforcement or tax collection services across county boundaries. Lastly, the department shall examine what, if any, insurance premium surcharge increases would be necessary to fund a supplement program for the provision of law enforcement or tax collection services across county boundaries, for a given level of participation in the program and a given level of supplemental pay. The Department for Criminal Justice Training shall submit its findings to the Legislative Research Commission by September 1, 2008.

Section 10. The Commission on Fire Protection Personnel Standards and Education shall study and report on the effect on the Firefighters Foundation Program fund of providing incentive pay to county professional fire departments that enter into interlocal agreements for the provision of fire protection services across county boundaries. The commission shall examine the cost of:

(1) A five percent (5%);

(2) A ten percent (10%);

(3) A fifteen percent (15%); and

(4) A twenty percent (20%) addition to the supplemental pay provided by Firefighters Foundation Program fund to participating county professional fire departments. The commission shall examine the range of participation levels by county professional fire departments in a supplement program for the provision of fire protection services across county boundaries and indicate which level of participation the Commission on Fire Protection Personnel Standards and Education feels is the most likely level of participation in such a supplement program. The commission shall also provide a justification for its determination of the most likely level of participation. The commission shall project the costs of the

varying levels of supplement and participation from fiscal years 2007-2008 through 2010-2011. The commission shall project funds available to the Firefighters Foundation Program fund for fiscal years 2007-2008 through 2010-2011, if possible, and match these proposed fund levels versus the levels of cost estimated for a supplement program for the provision of fire protection services across county boundaries. Lastly, the commission shall examine what, if any, insurance premium surcharge increases would be necessary to fund a supplement program for the provision of fire protection services across county boundaries, for a given level of participation in the program and a given level of supplemental pay. The Commission on Fire Protection Personnel Standards and Education shall submit its findings to the Legislative Research Commission by September 1, 2008.

Section 11. In order to promote efficiency, this Act takes effect July 1, 2007.

HB 122, AN ACT relating to the board of trustees of a fire protection district.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.260 is amended to read as follows:

(1) The board may fix the respective salaries of its members on a per meeting basis not to exceed ***forty-five***[~~twenty five~~] dollars ***($45)***[~~($25)~~] per meeting and not to exceed one (1) meeting per month.

(2) The board shall meet at least once a month at a time and place designated by the board and all meetings, except executive meetings, shall be open to the public.

HB 177, AN ACT changing the classification of the City of Crestview Hills, in Kenton County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Crestview Hills, in Kenton County, is such to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Crestview Hills, in Kenton County, is transferred from the fifth to the fourth class of cities.

HB 243, AN ACT relating to the Kentucky Single Family Dwellings Advisory Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Single Family Dwellings Advisory Board, which shall be attached to the Office of Housing, Buildings, and Construction for administrative purposes.

(2) The board shall be comprised of eight (8) members as follows:

(a) Three (3) members who shall be home builders appointed by the Governor from a list of six (6) nominees submitted by the Home Builders Association of Kentucky. Each nominee shall have been actively engaged in the home building business for not less than five (5) years immediately preceding the date of his or her appointment to the board;

(b) Three (3) members who shall be certified code inspectors appointed by the Governor from a list of six (6) nominees submitted by the Code Administrators Association of Kentucky. Each nominee shall have been actively engaged as a certified code inspector for not less than five (5) years immediately preceding the date of his or her appointment to the board;

(c) One (1) member who shall be an architect appointed by the Governor from a list of three (3) nominees submitted by the Kentucky Chapter of the American Society of Architects. Each nominee shall have been actively engaged as a licensed architect for not less than five (5) years immediately preceding the date of his or her appointment to the board; and

(d) The executive director of the Office of Housing, Buildings, and Construction, or his or her designee.

(3) Each member of the board shall be a citizen and resident of the Commonwealth of Kentucky.

(4) (a) Appointed members shall serve staggered terms of three (3) years that shall expire on June 30 of the final year of the term, except that, of the initial appointments, three (3) members shall serve for a term of three (3) years, two (2) members shall serve for a term of two (2) years, and two (2) members shall serve for a term of one (1) year.

(b) The executive director of the Office of Housing, Buildings, and Construction shall serve on the board for the duration of his or her term of appointment to that state government position.

(c) No member shall serve more than two (2) consecutive terms.

(d) Members may serve until their successors are appointed and qualified.

(e) A vacancy in an unexpired term shall be filled in the same manner as the original appointment.

(5) The executive director of the Office of Housing, Buildings, and Construction, or his or her designee, shall serve as chair of the board.

(6) A majority of the members of the board shall constitute a quorum for conducting business.

(7) The board shall meet at least once each calendar quarter in a location designated by the chair. The board may meet upon special call by the chair or by a majority of the board.

(8) Each appointed member listed in subsection (2)(a), (b), and (c) of this section shall receive twenty-five ($25) dollars per diem for attending each meeting and shall be reimbursed for actual and necessary expenses incurred in the performance of his or her official duties. The executive director of the OHBC shall not be eligible for a per diem.

(9) The duties of the Kentucky Single Family Dwellings Advisory Board shall be to:

(a) Review and interpret the International Building Code and make recommendations to the Kentucky Board of Housing, Buildings, and Construction as to which elements of the international code should be incorporated into the Kentucky State Residential Building Code; and

(b) Perform any other duties and responsibilities relating to the topic of single family dwellings that may be assigned by the Kentucky Board of Housing, Buildings, and Construction.

The Committee Substitute to **HB 243** is as follows:

HB 243, AN ACT relating to the Kentucky Single Family Dwellings Advisory Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Single Family Dwellings Advisory Committee, which shall be attached to the Office of Housing, Buildings, and Construction for administrative purposes.

(2) The committee shall be comprised of eight (8) members as follows:

(a) Three (3) members who shall be home builders appointed by the Governor from a list of six (6) nominees submitted by the Home Builders Association of Kentucky. Each nominee shall have been actively engaged in the home building business for not less than five (5) years immediately preceding the date of his or her appointment to the committee;

(b) Three (3) members who shall be certified code inspectors appointed by the Governor from a list of six (6) nominees submitted by the Code Administrators Association of Kentucky. Each nominee shall have been actively engaged as a certified code inspector for not less than five (5) years immediately preceding the date of his or her appointment to the committee;

(c) One (1) member who shall be an architect appointed by the Governor from a list of three (3) nominees submitted by the Kentucky Chapter of the American Society of Architects. Each nominee shall have been actively engaged as a licensed architect for not less than five (5) years immediately preceding the date of his or her appointment to the committee; and

(d) The executive director of the Office of Housing, Buildings, and Construction, or his or her designee.

(3) Each member of the committee shall be a citizen and resident of the Commonwealth of Kentucky.

(4) (a) Appointed members shall serve staggered terms of three (3) years that shall expire on June 30 of the final year of the term, except that, of the initial appointments, three (3) members shall serve for a term of three (3) years, two (2) members shall serve for a term of two (2) years, and two (2) members shall serve for a term of one (1) year.

(b) The executive director of the Office of Housing, Buildings, and Construction shall serve on the committee for the duration of his or her term of appointment to that state government position.

(c) No member shall serve more than two (2) consecutive terms.

(d) Members may serve until their successors are appointed and qualified.

(e) A vacancy in an unexpired term shall be filled in the same manner as the original appointment.

(5) The executive director of the Office of Housing, Buildings, and Construction, or his or her designee, shall serve as chair of the committee.

(6) A majority of the members of the committee shall constitute a quorum for conducting business.

(7) The committee shall meet at least once each calendar quarter in a location designated by the chair. The committee may meet upon special call by the chair or by a majority of the committee.

(8) Each appointed member listed in subsection (2)(a), (b), and (c) of this section shall receive twenty-five ($25) dollars per diem for attending each meeting and shall be reimbursed for actual and necessary expenses incurred in the performance of his or her official duties. The executive director of the Office of Housing, Buildings, and Construction

shall not be eligible for a per diem.

(9) The duties of the Kentucky Single Family Dwellings Advisory Committee shall be to:

(a) Review and interpret the International Building Code and make recommendations to the Kentucky Board of Housing, Buildings, and Construction as to which elements of the international code should be incorporated into the Kentucky State Residential Building Code; and

(b) Perform any other duties and responsibilities relating to the topic of single family dwellings that may be assigned by the Kentucky Board of Housing, Buildings, and Construction.

The Committee Amendment No. 1 Title to **HB 243** is as follows:

HB 243, Amend the title to read as follows: "AN ACT relating to the Kentucky Single Family Dwellings Advisory Committee."

HB 245, AN ACT relating to self-contained storage units.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 359.200 is amended to read as follows:

As used in KRS 359.210 to 359.250, unless the context clearly requires otherwise:

(1) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a "self-service" basis.

(2) "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility ***or self-contained storage unit***.

(3) ***"Self-contained storage unit" means any unit not less than five hundred (500) cubic feet in size, including but not limited to a trailer, box, or other shipping container, which is leased by an occupant primarily for use as a storage space, whether the unit is located at a self-service storage facility or at another location designated by the occupant***[~~"Leased space" means the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement~~].

(4) "Occupant" means a person, a sublessee, successor, or assign, entitled to the use of a[~~ leased~~] space at a self-service storage facility ***or in a self-contained storage unit*** under a rental agreement.

(5) "Operator" means the owner, operator, lessor, or sublessor of a self-service storage facility, ***or a self-contained storage unit, or*** an agent or any other person authorized to manage the facility ***or self-contained storage unit***, but does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

(6) "Personal property" means movable property ***located within a self-contained storage unit***[~~, not affixed to land~~] and includes[~~,~~] but is not limited to[~~,~~] goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.

(7) "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.

(8) "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

Section 2. KRS 359.210 is amended to read as follows:

(1) An operator shall not knowingly permit a ***self-contained storage unit***[~~leased space at a self-service storage facility~~] to be used ***as a residence***[~~for residential purposes~~].

(2) An occupant shall not use a ***self-contained storage unit as a residence***[~~leased space for residential purposes~~].

Section 3. KRS 359.220 is amended to read as follows:

(1) The operator of a self-service storage facility ***or self-contained storage unit*** shall have a lien on all personal property stored within each ***self-contained storage unit***[~~leased space~~] for rent, labor, or other charges, and for expenses reasonably incurred in its sale, as provided in KRS 359.200 to 359.250.

(2) The rental agreement shall contain a statement, in bold type, advising the occupant:

(a) Of the existence of the lien; and

(b) That property stored in the ***self-contained storage unit***[~~leased space~~] may be sold to satisfy the lien if the occupant is in default.

Section 4. KRS 359.230 is amended to read as follows:

(1) (a) If the occupant is in default for a period of more than forty-five (45) days, the operator may enforce a lien by selling the property stored in the ***self-contained storage unit***[~~leased space~~] at a public or private sale, for cash.

(b) Proceeds shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (5) of this section.

(2) Before conducting a sale under subsection (1), the operator shall:

(a) Notify the occupant of the default by regular mail at the occupant's last known address;

(b) Send a second notice of default by certified mail to the occupant at the occupant's last known address which includes:

1. A statement that the contents of the occupant's ***self-contained storage unit***[~~leased space~~] are subject to the operator's lien;

2. A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date those additional charges shall become due;

3. A demand for payment of the charges due within a specified time, not less than fourteen (14) days after the date of the notice;

4. A statement that unless the claim is paid within the time stated, the contents of the occupant's ***self-contained storage unit***[~~space~~] shall be sold at a specified time and place; and

5. The name, street address, and telephone number of the operator, or his ***or her*** designated agent, whom the occupant may contact to respond to the notice; and

(c) At least three (3) days before the sale, advertise the time, place, and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held.

(3) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(4) The sale under this section shall be held at the self-service storage facility ***or the location of the self-contained storage unit*** where the personal property is stored.

(5) If a sale is held under this section, the operator shall:

(a) Satisfy the lien from the proceeds of the sale;

(b) Hold the balance, if any, for delivery to any other recorded lienholders who present claims within sixty (60) days. Notwithstanding Article 9 of KRS Chapter 355, claims shall be satisfied on a first come first served basis; and

(c) Deliver, upon expiration of sixty (60) days, the balance of any remaining proceeds to the occupant.

(6) A purchaser in good faith of any personal property sold under KRS 359.200 to 359.250 takes the property free and clear of any rights of:

(a) Persons against whom the lien was valid; and

(b) Other lienholders.

(7) If the operator complies with the provisions of KRS 359.200 to 359.250, the operator's liability:

(a) To the occupant shall be limited to the net proceeds received from the sale of the personal property;

(b) To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien; and

(c) To the occupant or valid lienholders shall be relieved upon full distribution of proceeds in accordance with the provisions of KRS 359.200 to 359.250.

(8) If an occupant is in default, the operator may deny the occupant access to the ***self-contained storage unit***[~~leased space~~].

(9) (a) Unless otherwise specifically provided, all notices required by KRS 359.200 to 359.250 shall be sent by certified mail.

(b) 1. Notices sent to the operator shall be sent to the ***operator's principal office, as listed on the rental agreement***[~~self-service storage facility where the occupant's property is stored~~].

2. Notices to the occupant shall be sent to the occupant at the occupant's last known address.

(c) Notices shall be deemed delivered when deposited with the United States Postal Service, properly addressed as provided in paragraph (b), with postage paid.

(10) Provided, however, unless the rental agreement specifically provides otherwise and until a lien sale under KRS 359.200 to 359.250, the exclusive care, custody, and control of all personal property stored in the ***self-contained storage unit***[~~leased self-service storage space~~] shall remain vested in the occupant.

HB 281, AN ACT relating to local financial obligations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) No city, county, urban-county, consolidated local government, charter county, special district, or taxing district shall enter into any financing obligation of any nature, whether evidenced by note pursuant to KRS 65.7701 et seq. or otherwise, by lease pursuant to KRS 65.940 et seq., by bond issuance pursuant to KRS 66.011 et seq., or any long term debt obligation of any sort without first notifying the state local debt officer in writing. The state local debt officer may promulgate administrative regulations to develop the forms for the notification that shall contain the relevant financial terms of the obligation, including the interest rates or method of determining rates, the date of issue, the maturity dates, term of obligation, renewal periods, and the trustee or paying agent, if any. No approval of the state local debt officer shall be required.

(2) Any financing obligation entered into prior to the passage of this section shall be considered in compliance, if that notification is provided to the state local debt officer no later than one (1) year after the effective date of this Act.

Section 2. KRS 65.944 is amended to read as follows:

(1) (a)[~~Without first notifying the state local debt officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars ($100,000). The notification shall contain the terms of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and any other information the state local debt officer may require. The state local debt officer may prescribe a form for providing the information required by this paragraph.~~

~~(b)~~] In addition to the notification required by *Section 1 of this Act*[~~this subsection~~], no county, except an urban-county, shall enter into a lease if the lease price exceeds five hundred thousand dollars ($500,000) without first receiving the approval of the lease from the state local debt officer. The state local debt officer may prescribe procedures and adopt regulations for granting approval of the leases.

(b)[~~(c)~~]In addition to the notification required by *Section 1 of this Act*[~~this subsection~~], no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars ($100,000) without first receiving the approval of the lease from the chief state school officer. The chief state school officer shall recommend administrative regulations to the State Board of Education for implementation of KRS 65.940 to 65.956.

(2) The state local debt officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance.

Section 3. KRS 66.045 is amended to read as follows:

(1) It is the intent of this section to facilitate, through state technical and advisory assistance, the marketing of local government bonds and other long-term obligations at the lowest possible net interest costs.

(2)[~~Without first notifying the state local debt officer in writing, no bonds or obligations may be issued by or on behalf of any issuer except as provided by KRS 65.940 to 65.956. The notification shall contain the maturity schedule, interest rate, date of issue, purpose, paying agent, and any other information the state local debt officer may require to provide a complete file on local government debt.~~

~~(3)~~] The state local debt officer may provide technical and advisory assistance regarding the issuance of bonds and obligations to those issuers whose governing bodies request that assistance. The assistance shall include, but need not be limited to:

(a) Advice on the marketing of bonds and obligations by issuers;

(b) Conduct of training courses in debt management; and

(c) Promotion of the use by local governments of such tools for sound financial management as adequate systems of budgeting, accounting, auditing, and reporting.

Section 4. The following KRS section is repealed:

65.7719 Notification of prescribed note information to state local debt officer.

The Committee Substitute to **HB 281** is as follows:

HB 281, AN ACT relating to local financial obligations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) No city, county, urban-county, consolidated local government, charter county, special district, or taxing district shall enter into any financing obligation of any nature, whether evidenced by note pursuant to KRS 65.7701 et seq. or otherwise, by lease pursuant to KRS 65.940 et seq., under which the lease price exceeds two hundred thousand dollars ($200,000), by bond issuance pursuant to KRS 66.011 et seq., or any long term debt obligation of any sort without first notifying the state local debt officer in writing. The state local debt officer may promulgate administrative regulations to develop the forms for the notification that shall contain the relevant financial terms of the obligation, including the interest rates or method of determining rates, the date of issue, the maturity dates, term of obligation, renewal periods, and the trustee or paying agent, if any. No approval of the state local debt officer shall be required, unless otherwise required by law.

(2) Any financing obligation entered into prior to the passage of this section shall be considered in compliance, if that notification is provided to the state local debt officer no later than one (1) year after the effective date of this Act.

Section 2. KRS 65.944 is amended to read as follows:

(1) (a)[~~Without first notifying the state local debt officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars ($100,000). The notification shall contain the terms of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and any other information the state local debt officer may require. The state local debt officer may prescribe a form for providing the information required by this paragraph.~~

~~(b)~~] In addition to the notification required by ***Section 1 of this Act***[~~this subsection~~], no county, except an urban-county, shall enter into a lease if the lease price exceeds five hundred thousand dollars ($500,000) without first receiving the approval of the lease from the state local debt officer. The state local debt officer may prescribe procedures and adopt regulations for granting approval of the leases.

(b)[~~(c)~~]In addition to the notification required by ***Section 1 of this Act***[~~this subsection~~], no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars ($100,000) without first receiving the approval of the lease from the chief state school officer. The chief state school officer shall recommend administrative regulations to the State Board of Education for implementation of KRS 65.940 to 65.956.

(2) The state local debt officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance.

Section 3. KRS 66.045 is amended to read as follows:

(1) It is the intent of this section to facilitate, through state technical and advisory assistance, the marketing of local government bonds and other long-term obligations at the lowest possible net interest costs.

(2)[~~Without first notifying the state local debt officer in writing, no bonds or obligations may be issued by or on behalf of any issuer except as provided by KRS 65.940 to 65.956. The notification shall contain the maturity schedule, interest rate, date of issue, purpose, paying agent, and any other information the state local debt officer may require to provide a complete file on local government debt.~~

~~(3)~~] The state local debt officer may provide technical and advisory assistance regarding the issuance of bonds and obligations to those issuers whose governing bodies request that assistance. The assistance shall include, but need not be limited to:

(a) Advice on the marketing of bonds and obligations by issuers;

(b) Conduct of training courses in debt management; and

(c) Promotion of the use by local governments of such tools for sound financial management as adequate systems of budgeting, accounting, auditing, and reporting.

Section 4. The following KRS section is repealed:

65.7719 Notification of prescribed note information to state local debt officer.

HB 297, AN ACT relating to code enforcement boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.8811 is amended to read as follows:

(1) (a) A code enforcement board shall consist of ***no fewer than three (3)***[~~either three (3), five (5), or seven (7)~~] members who shall be appointed by the executive authority of the local government, subject to the approval of the legislative body.

(b) A joint code enforcement board shall include representation on the board of all participating local governments and members shall be appointed as set out in the terms of the interlocal agreement.

(2)[~~(a)~~] The initial appointments to a[~~three (3) member~~] code enforcement board shall be as follows:

(a)[~~1.~~] ***One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be***[~~One (1) member~~] appointed for a term of one (1) year;

(b)[~~2.~~] ***One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be***[~~One (1) member~~] appointed for a term of two (2) years; and

(c)[~~3.~~] ***One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be***[~~One (1) member~~] appointed for a term of three (3) years.

[~~(b) The initial appointments to a five (5) member code enforcement board shall be as follows:~~

~~1. One (1) member appointed for a term of one (1) year;~~

~~2. Two (2) members appointed for a term of two (2) years each; and~~

~~3. Two (2) members appointed for a term of three (3) years each.~~

~~(c) The initial appointments to a seven (7) member code enforcement board shall be as follows:~~

~~1. Two (2) members appointed for a term of one (1) year each;~~

~~2. Three (3) members appointed for a term of two (2) years each; and~~

~~3. Two (2) members appointed for a term of three (3) years each.]~~

All subsequent appointments shall be made for a term of three (3) years.

(3) (a) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

(b) Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

(4) A member may be reappointed, subject to approval of the legislative body.

(5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(6) Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

(7) All members of a code enforcement board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.

(8) The members of a code enforcement board may be reimbursed for expenses or compensated, or both, as specified in the ordinance creating the board.

(9) No member of a local government code enforcement board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government that has created the code enforcement board.

(10) Each legislative body that elects to establish a code enforcement board is encouraged to provide opportunities for education regarding pertinent topics for the members of the code enforcement board.

HB 355, AN ACT relating to area planning commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147.670 is amended to read as follows:

The area planning commission shall have the power and duty to:

(1) Prepare an area-wide comprehensive plan of the entire area within its jurisdiction, which includes all territory incorporated and unincorporated within the counties signator thereto. The area-wide comprehensive plan shall include at least all comprehensive plan elements and research requirements prescribed in KRS Chapter 100, so that the planning commissions of local planning units as established under KRS Chapter 100 and their respective legislative bodies, may adopt all or parts of said area-wide comprehensive plan, as it applies to their respective areas of jurisdiction, as a means of fulfilling the applicable requirements of KRS Chapter 100. This area-wide comprehensive plan shall be reviewed and amended, if necessary, at least once every five (5) years;

(2) Appoint an executive director for the commission and fix his compensation. The director shall be qualified by training and experience in the field of planning and zoning;

(3) Upon written request of a city or county within the territory of the area planning commission, the area planning commission's staff may prepare and submit for consideration to the appropriate local planning unit, zoning ordinances based on the comprehensive plans of such local planning unit. The area planning commission staff assigned to perform such work shall consult with the appropriate local planning unit as established under KRS Chapter 100, the city or county legislative bodies, and all property owners who are directly affected by any change in the zoning ordinance applicable to such local planning unit;

(4) Prescribe the qualifications of, appoint, remove and fix the compensation of employees of the commission;

(5) Prepare, publish and distribute reports and other material relating to the business of the commission;

(6) Prepare and submit an annual budget to the area planning council for the operation of the commission;

(7) Exercise general supervision of and make regulations for the administration of the affairs of the commission;

(8) Establish policies, procedures, and priorities for assigning staff and providing services to planning units established under the provision of KRS Chapter 100, their respective cities and counties, and other public and private agencies and organizations***, and may, irrespective of KRS 147.675, enter into agreements with cities, counties, and other public and private agencies and organizations in accordance with the provisions of KRS 65.210 to 65.300 for the administration of***

KRS 65.8801 to 65.8839 and KRS Chapters 99, 99A, 100, and 198B; ***and***

(9) Keep an accurate and complete record of all commission proceedings, financial statements, and annually report to the various cities and counties signators to the agreement provided in KRS 147.620.

HB 357, AN ACT relating to the medical expenses of county jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.045 is amended to read as follows:

(1) The county governing body shall prescribe rules for the government, security, safety, and cleanliness of the jail and the comfort and treatment of prisoners, provided such rules are consistent with state law. The county judge/executive may inspect the jail at any reasonable time.

(2) Willful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

(3) Except as provided in subsections (4) and (5) of this section, the cost of providing necessary medical, dental, and psychological care for indigent prisoners in the jail shall be paid from the jail budget.

(4) The cost of providing necessary medical, dental, or psychological care for prisoners of the United States government shall be paid as provided by contract between the United States government and the county or as may otherwise be provided by federal law.

(5) The cost of providing necessary medical, dental, or psychological care, beyond routine care and diagnostic services, for prisoners held pursuant to a contractual agreement with the state shall be paid as provided by contract between the state and county. The costs of necessary medical, dental, or psychological care, beyond routine care and diagnostic services, of prisoners held in the jail for which the county receives a per diem payment shall be paid by the state.

(6) The cost of providing necessary medical, dental, or psychological care for prisoners held pursuant to a contractual agreement with another county or a city shall be paid as provided by contract between the county or city and county.

(7) ***County reimbursement for care provided by physicians, hospitals, laboratories, or other health care providers for the cost of necessary medical, dental, or psychological care for a prisoner shall not exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, except as may be provided for in subsection (4), (5), or (6) of this section. This subsection shall not be deemed to prevent the creation of new programs, or disallow any existing programs, for the provision of necessary medical, dental, or psychological care for a prisoner that provide for reimbursements less than the payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program.***

(8) When the cost of necessary medical, dental, or psychological care for a prisoner exceeds two thousand dollars ($2,000), as calculated by using the maximum allowable costs to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, the state shall reimburse the county for that portion of the costs that exceeds two thousand dollars ($2,000). The reimbursement shall be subject to the following terms and conditions:

(a) The care is necessary as defined in subsection ***(11)***[~~(10)~~] of this section;

(b) The prisoner is indigent as defined in subsection ***(9)***[~~(8)~~] of this section, or is uninsured; and

(c) No state reimbursement to the county for care provided by physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, except as provided in subsection ***(12)***[~~(11)~~] of this section.

(9)[~~(8)~~] (a) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120. The prisoner shall not be considered indigent, in the case of prisoner medical care, if:

1. The prisoner has funds on his inmate account to cover all or a portion of his medical expenses;
2. The prisoner's medical expenses are covered on a medical insurance policy; or
3. The prisoner has the private resources to pay for the use of the medical facilities.

(b) Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, shall be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment.

(10)[~~(9)~~] The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

(11)[~~(10)~~] For the purposes of this section, "necessary care" means care of a nonelective nature that cannot be postponed until after the period of confinement without hazard to the life or health of the prisoner. The physician attending the prisoner shall certify, under oath, that the care was necessary.

(12)[~~(11)~~] Any money appropriated for a given fiscal year to fund the state's obligation under subsection ***(8)***[~~(7)~~] of this section which remains unspent at the end of the year shall not lapse but shall be made available to satisfy, to the maximum extent possible, that portion of each catastrophic claim made during said year above the threshold amount for which the county did not receive state assistance pursuant to subsection *(8)*[~~(7)~~] of this section. In the event there is an insufficient surplus to satisfy said balance of all such catastrophic claims which are made during that year, the state shall pay to those qualified counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. Should the surplus be sufficient to satisfy all such catastrophic claims, the amount remaining, if any, shall not lapse but shall be carried forward to the next fiscal year to be made available for future catastrophic claims.

(13)[~~(12)~~] Notwithstanding other provisions of this section to the contrary, a jail may impose a reasonable fee for the use of jail medical facilities by a prisoner who has the ability to pay for the medical care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical treatment because he has insufficient funds on his inmate account. This subsection shall not preclude other recovery of funds as provided in this section.

HB 376, AN ACT relating to insurance payments for firefighters permanently and totally disabled in the line of duty.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.070 is amended to read as follows:

(1) If a firefighter as defined in KRS 61.315 is, before, on, or after July 15, 2002, permanently and totally disabled as defined in KRS 342.0011 as a direct result of activities in the line of duty, then the firefighter shall be entitled to receive a monthly payment to be paid by the State Treasurer from the general fund appropriation to the police and firefighter-life insurance category contained in miscellaneous appropriations of the state/executive branch budget of:

(a) Two hundred dollars ($200) to help defray the costs of life insurance; and

(b) Two hundred dollars ($200) to help defray the costs of health insurance.

The amounts listed in paragraphs (a) and (b) of this subsection shall be adjusted each year by the percent increase in the nonseasonally adjusted annual average Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, between the two (2) most recent calendar years available, as published by the United States Bureau of Labor Statistics. The Finance and Administration Cabinet shall determine the adjustment, which shall be retroactive to January 1 of that year, and the State Treasurer shall pay the adjusted monthly payment to the firefighter.

(2) In order to receive the monthly payment, the firefighter must present to the Commission on Fire Protection Personnel Standards and Education:

(a) A written statement from the fire chief of the fire department under whose command the firefighter was at the time of injury stating the fact that the firefighter was on active duty and on assignment with that fire department when the injury occurred; and

(b) A written statement from at least two (2) licensed and practicing physicians stating that the member is totally and likely to be permanently disabled as defined in KRS 342.0011; and

(c) Proof, in a form satisfactory to the commission, that the firefighter has either or both active life and health insurance policies.

(3) (a) If a firefighter, either through a settlement of any kind or through any other source, has life insurance provided at no cost, then the firefighter shall not be eligible to receive the life insurance payment described in subsection (1)(a) of this section. If a firefighter receives partial payment of life insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(b) If a firefighter, either through a settlement of any kind or through any other source, has health insurance provided at no cost, then the firefighter shall not be eligible to receive the health insurance payment described in subsection (1)(b) of this section. If a firefighter receives partial payment of health insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(4) If the firefighter should no longer be considered permanently and totally disabled as defined in KRS 342.0011, or if either or both life and health insurance policies are terminated, then the firefighter shall within thirty (30) days of that determination notify the Commission on Fire Protection Personnel Standards and Education, in writing, of that fact or facts. The commission shall then terminate the appropriate subsequent payments to that firefighter. A firefighter may continue to receive payments for one (1) type of insurance as long as the firefighter is still permanently and totally disabled and the insurance policy is active. If the firefighter fails to notify the commission within thirty (30) days and receives subsequent payments under this section, the firefighter shall be responsible for repaying any payments provided to the firefighter under this section from the date that the firefighter was no longer considered permanently and totally disabled.

(5) The Commission on Fire Protection Personnel Standards and Education shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing procedures and criteria applicable to the administration of this section by December 31, 2002.

(6) Any firefighter convicted of knowingly providing false information to receive the benefits in subsection (1) of this section shall be guilty of a Class D felony and shall be responsible for repaying the total amount paid to the firefighter, plus

interest, under the provisions of this section within a time to be determined by the commission. The firefighter shall also no longer be eligible to receive any payments provided under this section.

(7) In the event sufficient funds do not exist to cover all the financial obligations of this section, then the payments shall be prorated among the participants evenly.

HB 448, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.065 is amended to read as follows:

(1) The governing body of each district shall annually prepare a budget and, as appropriate, shall classify budget units in the same fashion as county budgets are classified in accordance with KRS 68.240(2) to (5). The state local finance officer shall prepare standard budget forms for district use and shall furnish them to county clerks for distribution to district officers. No moneys shall be expended from any funds or any sources, except in accordance with the budget which has been filed with the fiscal court to be available for public inspection. No budget of a district shall become effective until filed with the fiscal court of the county in which the district is located for submission to the Department for Local Government. For those districts with multicounty jurisdictions, the district shall file a copy with each of the fiscal courts within the jurisdiction of the district for their review. If the budget is not filed with the fiscal court at least thirty (30) days prior to the start of the district fiscal year, the fiscal court shall immediately notify the county attorney. The county attorney shall then notify the governing board of the special district of the noncompliance and then proceed with any steps necessary to prevent the expenditure of funds by the special district until the district is in compliance.

(2) The governing body of each district which for the year in question receives from all sources or expends for all purposes less than ***seven hundred fifty thousand dollars ($750,000)***[~~four hundred thousand dollars ($400,000)~~] shall annually prepare a financial statement, except that once every four (4) years the district's governing body shall provide for the performance of an audit as provided in subsection (4) of this section.

(3) The governing body of each district which for the year in question receives from all sources or expends for all purposes ***seven hundred fifty thousand dollars ($750,000)***[~~four hundred thousand dollars ($400,000)~~] or more shall provide for the performance of an annual audit as provided in subsection (4) of this section.

(4) To provide for the performance of an audit, the governing body of a district shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform an audit of the funds in the district budget. The audit shall conform to:

(a) Generally-accepted governmental auditing standards, which means those standards for audits of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States; and

(b) Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts. A unit of government furnishing funds directly to a district may require additional audits at its own expense. Upon request, the State Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit. If a district is required by law to audit its funds more often than is required by this section, it shall perform those audits and may submit them in lieu of the requirements of this section, if the audits meet the requirements of this subsection.

(5) The provisions of subsection (2) of this section shall not apply to any district that is required by law to annually submit a financial report to an agency of state government. The districts shall annually submit a copy of their financial report to the county judge/executive and to the state local finance officer and once every four (4) years provide for the performance of an audit as provided in subsection (4) of this section.

(6) Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 2. KRS 262.280 is amended to read as follows:

(1) The board shall provide for the keeping of a full and accurate record of all its proceedings and of all resolutions, regulations and orders issued or adopted by it.

(2) ***An audit of the accounts of each district shall take place once every four (4) years unless the district receives or expends seven hundred fifty thousand dollars ($750,000) or more in any year, in which case the district shall provide for the performance of an annual audit. The audit shall be conducted in accordance with audit standards and requirements stipulated in KRS 65.065(4)***[~~The board shall provide for an annual audit of the accounts of its receipts and disbursement of its funds~~].

(3) Upon request of the commission, the board shall furnish the commission with copies of ordinances, regulations, orders, contracts, forms and other documents adopted or employed by the board and any other information requested by the commission concerning the board's activities.

Section 3. KRS 262.763 is amended to read as follows:

(1) An audit of the accounts of each watershed conservancy district shall take place once every four (4) years unless the district receives or expends ***seven hundred fifty thousand dollars ($750,000)***~~[four hundred thousand dollars ($400,000)]~~ or more in any year, in which case the district shall provide for the performance of an annual audit. ***The audit shall be conducted in accordance with audit standards and requirements stipulated in KRS 65.065(4).*** The board of directors of each watershed conservancy district shall select to make the audit certified public accountants who have no personal interest in the financial affairs of the board of directors or in any of its officers or employees.

(2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations. This report shall be to the board of directors and in such number of copies as specified by the board of directors. Immediately following receipt of the audit report, the board of directors shall cause a summary of the report or the text of the report to be advertised for the district by publication in a newspaper of general circulation in the area encompassed by the watershed conservancy district. The actual expense of any audit authorized under this section shall be borne by the watershed conservancy district.

(3) The board of directors shall forward a copy of the newspaper in which the audit report appeared to the State Auditor of Public Accounts.

HB 514, AN ACT relating to the assumption of duties by local elected officers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 62.010 is amended to read as follows:

(1) No officer shall enter upon the duties of his office until he takes the oath required of him by law.

(2) Each person elected to an office shall take the oath of office on or before the day the term of office to which he has been elected begins***, except in years where the first Monday in January falls upon January 1. In years where the first Monday falls upon January 1, no penalty shall be applied to any officer that fails to take the oath of office, so long as the oath of office is taken within thirty (30) days of the first Monday of January 1***.

(3) Each person appointed to an office shall take the oath of office within thirty (30) days after he receives notice of his appointment.

Section 2. KRS 62.050 is amended to read as follows:

(1) Except as otherwise provided by statute, no officer required by law to give bond shall enter upon the duties of his office until he gives the bond***, except in years where the first Monday in January falls upon January 1. In years where the first Monday falls upon January 1, no penalty shall be applied to any officer that fails to take the oath of office, so long as the oath of office is taken within thirty (30) days of the first Monday of January***.

(2) Except as otherwise provided by statute, each person elected to an office who is required to give bond shall give the bond on or before the day the term of office to which he has been elected begins.

(3) Each person appointed to an office who is required to give bond shall give the bond within thirty (30) days after he receives notice of his appointment.

Section 3. The provisions of this Act shall apply retroactively to any elected officer required to take the oath of office and execute bond by the first Monday of year 2007.

Section 4. Whereas it is in the interest of the People of the Commonwealth that any disputes concerning the assumption of duties be speedily and efficiently resolved, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Education reported **HB 2, HB 50, HB 208, HB 229, HB 230, HB 235, HB 306,** with Committee Substitute attached thereto, **HB 373, HB 380,** with Committee Substitute attached thereto, **HB 440,** with Committee Substitute attached thereto, **HB 461,** with Committee Substitute attached thereto, and **HCR 75** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT relating to the Kentucky educator award and recognition fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky educator award and recognition fund is hereby created to provide matching funds to public schools in honor of educators who have been recognized at the state or national level with a cash prize or an equivalent benefit for outstanding performance or educational accomplishments. The fund shall be administered by the Kentucky Department of Education.

(2) The fund shall consist of proceeds from contributions, appropriations, or other moneys made available for purposes of the fund. Any moneys in the fund not expended at the close of a fiscal year shall not lapse, including any interest earnings that shall become a part of the fund, but shall be carried forward to the next fiscal year to be used for the purposes specified in this section.

(3) The funds shall be distributed to the school in which the outstanding educator is employed. The funds shall be used for school purposes, which may include purchase of instructional materials and equipment, technology, professional development including paid sabbaticals, field trips, and other educational operating expenses. If a recipient is required to be released from classroom duties during the year of recognition to travel nationally and internationally as a spokesperson for the teaching profession, as is the situation with the National Teacher of the Year program, the fund shall provide the school an amount equal to the teacher's salary and benefits.

(4) The fund may match unrestricted funds or restricted funds awarded to the educator by a national or state professional education organization, civic organization, foundation, government entity, or business.

(5) Distribution of the matching funds shall be on a dollar-to-dollar match if funds are available. If funds are insufficient, they shall be prorated to eligible recipients.

(6) By September 1 each year, the commissioner of education shall notify each public school superintendent about the availability of the Kentucky educator award and recognition fund. The department shall provide information on the agency's Web site regarding state and national educator award and recognition programs.

(7) Upon notification and verification of a state or national award for an educator in a given school, the commissioner of education shall distribute matching funds to the school as soon as is feasible and before the end of the fiscal year in which the award was received.

HB 50, AN ACT relating to local school board members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.280 is amended to read as follows:

(1) Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of seventy-five dollars ($75) in any calendar year, and their actual expenses for each regular or special meeting attended. Members shall receive this same per diem for training required by KRS 160.180. In no case shall the expenses incurred within the district or per diem of any member exceed ***three thousand dollars ($3,000)***[~~two thousand dollars ($2,000)~~] in any calendar year.

(2) [~~Notwithstanding the provisions of subsection (1) of this section, members of boards of education in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(5) shall receive a per diem of seventy-five dollars ($75), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. Members shall receive this same per diem for training required by KRS 160.180. In no case shall the expenses incurred within the district or per diem of any member exceed three thousand dollars ($3,000) per calendar year.~~

~~(3)~~]Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.

(3)[~~(4)~~] All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

(4)[~~(5)~~] Board members shall be eligible to participate in any group medical or dental insurance plan provided to employees of the district pursuant to KRS 161.158. Participating board members shall pay the full cost of any premium required for their participation in the plan.

Section 2. KRS 161.158 is amended to read as follows:

(1) (a) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees including the state employee health insurance group as described in KRS 18A.225, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280***(4)***[~~(5)~~], board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.

(b) If a district board of education participates in the state employee health insurance program, as described in KRS 18A.225, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

(2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. The deductions shall be made from salaries earned in at least eight (8) different pay periods, and shall be remitted to the

appropriate organization or association as specified by the employees within thirty (30) days following the deduction provided the district has received appropriate invoices or necessary documentation. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.

(3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

HB 208, AN ACT relating to criminal background checks in public postsecondary education institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.281 is amended to read as follows:

(1) Each public institution of postsecondary education shall require a criminal history background check on all initial hires.

(a) The background check shall consist of a state criminal history background check and a national criminal history background check.

(b) Applications shall authorize the appropriate agency to search police records for convictions and make results known to the institution, and the institution may require the applicant to bear the cost of the criminal history background check.

(c) A public institution may exempt work study students except those who would be working with or have unsupervised contact with persons who are under the age of eighteen (18) from the requirements of this subsection.

(2) Each public institution of postsecondary education may require a criminal history background check on a contractor, employee of a contractor, volunteer for the institution or a program of the institution, or visitor, subject to the same terms and conditions as in subsection (1) of this section.

(3) If, upon review of the results of the criminal history background check, a public institution of postsecondary education finds that the applicant, contractor, employee of a contractor, volunteer, or visitor has been convicted of, pled guilty to, or entered an Alford plea to a sex crime as specified in KRS 17.500 or a violent offense as specified in KRS 439.3401, the institution may:

(a) Deny employment or modify the conditions of employment to provide for appropriate supervision;

(b) Deny a contractor or a contractor's employee a permit to enter the institution or its grounds, or modify the contract to provide for appropriate supervision;

(c) Prohibit a person from volunteering or require the person to agree to appropriate supervision; or

(d) Prohibit a person from visiting the institution or its grounds, or require that person to agree to appropriate supervision.

(4) Each application or renewal form, provided by the institution to an applicant for employment, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(5) If the institution requires a criminal history background check for contractors, employees of contractors, volunteers, or visitors, the institution shall provide to the prospective person or organization the following statement: "FOR THIS TYPE OF CONTRACT OR FOR BEING AN EMPLOYEE OF A CONTRACTOR, A VOLUNTEER FOR THE INSTITUTION OR AN INSTITUTIONAL PROGRAM, OR A VISITOR OF THE INSTITUTION, THIS INSTITUTION REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK."

(6) If an employee of the public institution of postsecondary education is convicted of, pleads guilty to, enters an Alford plea to, or is adjudicated guilty of an offense specified in subsection (3) of this section, the employment of that person may, at the discretion of the institution, be terminated as of the date of the conviction.

(7) A private college or university located in the Commonwealth may utilize at its discretion any of the provisions of this section, providing that it does so in a written institutional document.

HB 229, AN ACT relating to teacher scholarships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.769 is amended to read as follows:

(1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.

(2) For purposes of this section, the terms listed below shall have the following meanings:

(a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable including, but not limited to, local education agencies to identify the critical shortage areas.

(b) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification.

(c) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv.

(d) "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.

(e) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), except that an individual having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), whose disability, certified by a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician.

(f) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year.

(g) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.

(3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received teacher scholarships pursuant to this section prior to July 1, 1996. Each teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.

(4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution or who received teacher scholarships pursuant to this section prior to July 1, 1996. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to any otherwise eligible students seeking admission to a teacher education program.

(5) ***The amount of each scholarship to be awarded shall not exceed the applicant's total cost of education, minus the expected family contribution, minus other financial assistance received or expected to be received by the applicant during the academic period.*** The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each semester and summer term under this section, and shall prorate the amount awarded to any student enrolled less than full-time in accordance with paragraph (6)(a) of this section. The aggregate amount of scholarships awarded to an individual ***for both undergraduate and postbaccalaureate study*** shall not exceed ***twenty thousand dollars ($20,000), of which no more than*** twelve thousand five hundred dollars ($12,500) ***shall be awarded*** for undergraduate ***study***[~~students and seven thousand five hundred dollars ($7,500) for postbaccalaureate students~~], except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars ($20,000)[~~, and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period~~].

(6) (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study on a full-time basis, except that disbursements may be made to otherwise eligible students enrolled less than full-time in the semester or summer term in which the eligible program of study will be completed or otherwise eligible students having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), who have been certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability. Teacher scholarships shall be disbursed to eligible students who received teacher scholarships pursuant to this section for recertification in a critical shortage area prior to July 1, 1996, who are enrolled in and continuing toward completion of their program of study, and who agree to render qualified teaching service as certified teachers.

(b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to

KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.

(d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.

(e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.

(f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.

(g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.

(9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.

(10) The authority may execute appropriate contracts and promissory notes for administering this section.

(11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified applicants until funds are depleted.

HB 230, AN ACT relating to the operation of school buses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "cellular telephone" means a cellular, analog, wireless, or digital telephone.

(2) A person shall not operate a school bus, as defined in KRS 281A.010, on any highway while using a cellular telephone while the bus is in motion and transporting one (1) or more children, except for communications made to and from a central dispatch, school transportation department, or its equivalent when the bus is not equipped with a functioning two-way radio.

(3) Notwithstanding subsection (2) of this section, a person operating a school bus shall be allowed to use a cellular telephone in the event of a bona fide emergency.

Section 2. KRS 281A.190 is amended to read as follows:

(1) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:

(a) Driving or being in physical control of a motor vehicle under the influence of alcohol or a controlled substance;

(b) Driving or being in physical control of a motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;

(c) Leaving the scene of an accident involving a motor vehicle driven by a person who holds or is required to hold a CDL;

(d) Using a motor vehicle in the commission of any felony listed in KRS 186.560;

(e) Refusing to submit to testing as required by KRS 281A.220 when driving a motor vehicle;

(f) Committing a first violation of driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or when the person is disqualified from operating a commercial motor vehicle; or

(g) Causing a fatality through negligent or criminal operation of a commercial motor vehicle.

(2) A person who holds or is required to hold a CDL shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal Motor Carrier Safety Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person who holds or is required to hold a CDL shall be disqualified for a period of three (3) years.

(4) Notwithstanding any other provisions of law, a period of suspension, revocation, or disqualification imposed under the provisions of this chapter shall not be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.

(5) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(6) A person who holds or is required to hold a CDL shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

(7) A person who holds or is required to hold a CDL shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.

(8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his commercial driving privilege, subject to a hearing conducted in accordance with KRS 189A.107, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.

(9) If a person who holds or is required to hold a CDL is convicted of any of the railroad crossing offenses or conduct enumerated in KRS 189.500, 189.560, and 189.565, then the person shall be disqualified from operating a commercial motor vehicle for a period of:

(a) Sixty (60) days for the first offense;

(b) One hundred twenty (120) days for the second offense within a three (3) year period; and

(c) One (1) year for the third or subsequent offense within a three (3) year period.

(10) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting nonhazardous materials, then the person shall be disqualified from operating a commercial motor vehicle for a period of:

(a) Ninety (90) days for the first offense;

(b) One (1) year for the second offense in a separate incident within a ten (10) year period; and

(c) Three (3) years for the third or subsequent offense in a separate incident within a ten (10) year period.

(11) If a person who holds or is required to hold a CDL violates an out-of-service order while transporting hazardous materials required to be placarded under the 49 U.S.C. sec. 5101 et seq., or operating a commercial motor vehicle designed to transport sixteen (16) or more passengers, including the driver, then the person shall be disqualified from operating a commercial motor vehicle for a period of:

(a) One hundred eighty (180) days for the first offense; and

(b) Three (3) years for the second or subsequent offense in a separate incident within a ten (10) year period.

(12) ***A person who violates the provisions of Section 1 of this Act shall be fined fifty dollars ($50) for the first offense. For a subsequent offense, a violator shall be fined one hundred dollars ($100) and shall have his or her school bus endorsement suspended for a period of six (6) months.***

(13) After disqualifying a commercial driver's license holder or suspending, revoking, or canceling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action within ten (10) days of receipt. After disqualifying a commercial driver's license holder or suspending, revoking, or canceling an out-of-state commercial driver's license holder's privilege to operate a commercial motor vehicle for at least sixty (60) days, the Transportation

Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, cancellation, or revocation.

(14)[~~(13)~~] Upon notice from the Federal Motor Carrier Safety Administration that a driver has been determined to be an imminent hazard and has been disqualified from operating a commercial motor vehicle, the cabinet shall act in accordance with the provisions of 49 C.F.R. sec. 383.52. The cabinet shall notify the driver of the disqualification, which shall not exceed one (1) year in duration, and of the right to appeal to the Federal Motor Carrier Safety Administration in accordance with 49 C.F.R. sec. 383.52.

HB 235, AN ACT relating to school readiness.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.031 is amended to read as follows:

(1) In this section, "primary school program" means that part of the elementary school program in which children are enrolled from the time they begin school until they are ready to enter the fourth grade. Notwithstanding any statute to the contrary, successful completion of the primary school program shall be a prerequisite for a child's entrance into fourth grade.

(2) The Kentucky Board of Education shall establish, by administrative regulation***:***[~~,~~]

(a) Procedures for determining school readiness of primary students;

(b) The readiness data to be reported annually, beginning in the 2009-2010 school year; and

(c) Methods of verifying successful completion of the primary school program in carrying out the goals of education as described in KRS 158.6451.

(3) The primary program shall include the following critical attributes: developmentally appropriate educational practices; multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement.

(4) Each school council or, if none exists, the school shall determine the organization of its ungraded primary program including the extent to which multiage groups are necessary to implement the critical attributes based on the critical attributes and meeting individual student needs.

(5) The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate.

(6) A school district may advance a student through the primary program when it is determined that it is in the best educational interest of the student. A student who is at least five (5) years of age, but less than six (6) years of age, and is advanced in the primary program may be classified as other than a kindergarten student for purposes of funding under KRS 157.310 to 157.440 if the student is determined to have acquired the academic and social skills taught in kindergarten as determined by local board policy in accordance with the process established by Kentucky Board of Education administrative regulation.

(7) Data shall be collected by each school district on the number of students, in each school having a primary program, who take five (5) years to complete the primary program. The data shall be reported in the annual performance report described in KRS 158.6453.

HB 306, AN ACT relating to the Academy of Mathematics and Science in Kentucky and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Academy of Mathematics and Science in Kentucky is hereby created at Western Kentucky University. The academy shall provide a residential, coeducational program to highly motivated and talented high school juniors and seniors from across the state who are interested in pursuing careers in mathematics, science, technology, and engineering.

(a) The purposes of the academy are to:

1. Provide advanced educational opportunities for a select number of Kentucky's exceptional students to study mathematics and science in an environment that prepares them for leadership roles in the Commonwealth;

2. Increase the number of professionals in the fields of mathematics, science, technology, and engineering; and

3. Meet the intellectual needs of a select number of high school students who would benefit from early participation in a postsecondary education setting.

(b) Long-term goals of the academy are to:

1. Increase Kentucky's intellectual capital in the fields of mathematics, science, technology, and engineering; and

2. Increase innovation and advances in these fields with application for Kentucky as well as the rest of the nation.

(2) The academy shall be under the control and management of the Western Kentucky University board of regents. The university shall provide the facilities, support services, and staff, including university faculty members, to teach all academic courses for the students at the academy. Notwithstanding KRS 161.020, 161.030, and 161.048, the Education Professional Standards Board shall recognize faculty of the Academy of Mathematics and Science in Kentucky as certified.

(3) The president of the university, with approval of the board of regents, shall appoint an advisory board to provide oversight to the academy. The size and makeup of the advisory board shall be at the discretion of the president; however, the president shall ensure representation from all geographic regions of the state and include P-16 educators and business and industry representatives, as well as ensure representation from both sexes and racial diversity. The president shall determine the length of terms, the duties of the advisory committee, and the operational procedures.

(4) Students shall be selected on the basis of criteria established by the academy. The academy shall solicit recommendations and applications of potential students from all Kentucky public school districts and private, parochial, or church schools located in Kentucky that have been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160. Prior to the selection process, the administrator of the academy shall provide a detailed description of the selection process, including how priority for geographic, racial, ethnic, and gender diversity will be used.

(5) Based on available funds as described in subsection (8) of this section, the university may provide all or a portion of the costs of tuition, room, board, and other fees to the academy students. Books, instructional supplies, and incidental fees shall be the responsibility of the students. The university shall define what services and privileges shall be made available to the students while in residence.

(6) Students in the academy shall take the assessments required of all high school students as required by the Commonwealth Accountability Testing System described in KRS 158.6453. The assessment scores shall be reported to the home high schools of the students and counted in the accountability index as described in KRS 158.6455(3).

(7) Students who complete the program at the academy may use the courses to qualify for a high school diploma and to earn college credit hours. The earned college credit hours shall be transferable to any public postsecondary education institution in Kentucky.

(8) The academy shall be funded with appropriations by the General Assembly from the general fund and funds from the Support Educational Excellence in Kentucky Program as described in Section 2 of this Act. The academy may receive donations, grants, and bequests, and may charge tuition and fees.

Section 2. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:

1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and

2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);

2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12).

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Career and Technical Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

(14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.

(15) Based on the 2007-2008 school year and each year thereafter, the Department of Education shall provide the adjusted base funding level for each student in average daily attendance in the Academy of Mathematics and Science in Kentucky to Western Kentucky University for operation of the academy.

Section 3. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) ***(a) The Academy of Mathematics and Science in Kentucky may award a diploma to any student who completes his or her high school program at the academy. If the academy issues a diploma, the board of regents shall provide to the commissioner of education a letter of assurance that the program of study completed by its students, in combination with previously earned secondary credits, meets the minimum graduation requirements established by the Kentucky Board of Education under KRS 156.160(1)(c).***

(b) A local school district may award a joint diploma with the Academy of Mathematics and Science in Kentucky to any student who was enrolled in a district high school and completed his or her high school program at the academy.

(c) The academy and the home school district shall ensure that student transcripts from each institution accurately reflect the dual credit coursework.

(4) A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class ***with whom*** the student was expected to graduate.

(5)[~~(4)~~] (a) A local board of education shall award an authentic high school diploma to an honorably discharged veteran who did not complete high school prior to being inducted into the United States Armed Forces during:

1. World War II, as defined in KRS 40.010;
2. The Korean conflict, as defined in KRS 40.010; or
3. The Vietnam War. As used in this paragraph, "Vietnam War" means the period beginning August 5, 1964, and ending May 7, 1975. However, for a member of the United States Armed Forces serving in Vietnam

prior to August 5, 1964, the period shall begin February 28, 1961.

(b) Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding the authentic diplomas referred to in paragraph (a) of this subsection.

(6)[~~(5)~~] The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Section 4. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

(1) "Advanced placement" means a college-level course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

(2) "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.

(3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.

(4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study***, including participating in the Academy of Mathematics and Science in Kentucky***.

(5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously***, including participating in the Academy of Mathematics and Science in Kentucky***.

Section 5. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;

(7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(8) "Eligible high school student" means any person who:

(a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

(b) Was enrolled after July 1, 1998:

1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;[~~ or~~]

2. In a Kentucky high school for the fall academic term of the senior year and who:

a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year; ***or***

3. In the Academy of Mathematics and Science in Kentucky during the senior year for the full academic year while meeting the Kentucky educational excellence scholarship curriculum requirements; and

4.[~~3.~~] Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

(c) Is not a convicted felon;

(9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky

resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

(b) Has the required postsecondary G.P.A. required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(12) "High school" means any Kentucky public high school, ***the Academy of Mathematics and Science in Kentucky,*** and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(13) "KEES" means Kentucky educational excellence scholarship;

(14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;

(15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs;

(19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 6. KRS 164.7885 is amended to read as follows:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. ***The Academy of Mathematics and Science in Kentucky shall report the data on its students with their home high schools noted to the authority.*** The list need not contain the ACT score if the authority receives the ACT score directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.

(2) The authority shall provide data access only to participating institutions that have either received an admission application

from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.

(3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(c) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

(c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.

(4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).

(6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:

(a) In default on any loan under Title IV of the federal act; or

(b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or

(c) Liable for overpayment of any grant or loan under Title IV of the federal act; or

(d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

Section 7. The Academy of Mathematics and Science in Kentucky shall enroll its first students for the 2007-2008 academic year.

Section 8. Whereas the Academy for Mathematics and Science in Kentucky intends to enroll students for the 2007-2008 academic year and whereas there are several time-sensitive policy and operational decisions that need to be made in order to recruit and enroll the first class of students, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 306** is as follows:

HB 306, AN ACT relating to the Academy of Mathematics and Science in Kentucky and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Academy of Mathematics and Science in Kentucky is hereby created at Western Kentucky University. The academy shall provide a residential, coeducational program to highly motivated and talented high school juniors and seniors from across the state who are interested in pursuing careers in mathematics, science, technology, and engineering.

(a) The purposes of the academy are to:

1. Provide advanced educational opportunities for a select number of Kentucky's exceptional students to study mathematics and science in an environment that prepares them for leadership roles in the Commonwealth;

2. Increase the number of professionals in the fields of mathematics, science, technology, and engineering; and

3. Meet the intellectual needs of a select number of high school students who would benefit from early participation in a postsecondary education setting.

(b) Long-term goals of the academy are to:

1. Increase Kentucky's intellectual capital in the fields of mathematics, science, technology, and engineering; and

2. ***Increase innovation and advances in these fields with application for Kentucky as well as the rest of the nation.***

(2) The academy shall be under the control and management of the Western Kentucky University board of regents. The university shall provide the facilities, support services, and staff, including university faculty members, to teach all academic courses for the students at the academy. Notwithstanding KRS 161.020, 161.030, and 161.048, the Education Professional Standards Board shall recognize faculty of the Academy of Mathematics and Science in Kentucky as certified. This certification applies only to teaching at the academy and is nontransferable to another public school. Faculty may use teaching experience at the academy towards Option 3. alternative certification under KRS 161.048(4). The academy shall report to the Education Professional Standards Board the names of instructors and courses taught at the academy each semester.

(3) The president of the university, with approval of the board of regents, shall appoint an advisory board to provide oversight to the academy. The size and makeup of the advisory board shall be at the discretion of the president; however, the president shall ensure representation from all geographic regions of the state and include P-16 educators and business and industry representatives, as well as ensure representation from both sexes and racial diversity. The president shall determine the length of terms, the duties of the advisory committee, and the operational procedures.

(4) Students shall be selected on the basis of criteria established by the academy. The academy shall solicit recommendations and applications of potential students from all Kentucky public school districts and private, parochial, or church schools located in Kentucky that have been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160. Prior to the selection process, the administrator of the academy shall provide a detailed description of the selection process, including how priority for geographic, racial, ethnic, and gender diversity will be used.

(5) Based on available funds as described in subsection (8) of this section, the university may provide all or a portion of the costs of tuition, room, board, and other fees to the academy students. Books, instructional supplies, and incidental fees shall be the responsibility of the students. The university shall define what services and privileges shall be made available to the students while in residence.

(6) Students in the academy shall take the assessments required of all high school students as required by the Commonwealth Accountability Testing System described in KRS 158.6453. The assessment scores shall be reported to the home high schools of the students and counted in the accountability index as described in KRS 158.6455(3).

(7) Students who complete the program at the academy may use the courses to qualify for a high school diploma and to earn college credit hours. The earned college credit hours shall be transferable to any public postsecondary education institution in Kentucky.

(8) The academy shall be funded with appropriations by the General Assembly from the general fund and funds from the Support Educational Excellence in Kentucky Program as described in Section 2 of this Act. The academy may receive donations, grants, and bequests, and may charge tuition and fees.

Section 2. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:

1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and
2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12).

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Career and Technical Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

(14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.

(15) Based on the 2007-2008 school year and each year thereafter, the Department of Education shall provide the statewide guaranteed base funding level for each student in the prior year's average daily attendance in the Academy of Mathematics and Science in Kentucky to Western Kentucky University for operation of the academy.

Section 3. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) (a) The Academy of Mathematics and Science in Kentucky may award a diploma to any student who completes his or her high school program at the academy. If the academy issues a diploma, the board of regents shall provide to the commissioner of education a letter of assurance that the program of study completed by its students, in combination with previously earned secondary credits, meets the minimum graduation requirements established by the Kentucky Board of Education under KRS 156.160(1)(c).

(b) A local school district may award a joint diploma with the Academy of Mathematics and Science in Kentucky to any student who was enrolled in a district high school and completed his or her high school program at the academy.

(c) The academy and the home school district shall ensure that student transcripts from each institution accurately reflect the dual credit coursework.

(4)[~~(3)~~] A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class ***with whom*** the student was expected to graduate.

(5)[~~(4)~~] (a) A local board of education shall award an authentic high school diploma to an honorably discharged veteran who did not complete high school prior to being inducted into the United States Armed Forces during:

1. World War II, as defined in KRS 40.010;
2. The Korean conflict, as defined in KRS 40.010; or
3. The Vietnam War. As used in this paragraph, "Vietnam War" means the period beginning August 5, 1964,

and ending May 7, 1975. However, for a member of the United States Armed Forces serving in Vietnam prior to August 5, 1964, the period shall begin February 28, 1961.

(b) Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding the authentic diplomas referred to in paragraph (a) of this subsection.

(6)[~~(5)~~] The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Section 4. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

(1) "Advanced placement" means a college-level course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

(2) "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.

(3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.

(4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study***, including participating in the Academy of Mathematics and Science in Kentucky***.

(5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously***, including participating in the Academy of Mathematics and Science in Kentucky***.

Section 5. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;

(7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(8) "Eligible high school student" means any person who:

(a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

(b) Was enrolled after July 1, 1998:

1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;[~~ or~~]

2. In a Kentucky high school for the fall academic term of the senior year and who:

a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year; ***or***

3. In the Academy of Mathematics and Science in Kentucky during the senior year for the full academic year while meeting the Kentucky educational excellence scholarship curriculum requirements; and

4.[~~3.~~] Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

(c) Is not a convicted felon;

(9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

(b) Has the required postsecondary G.P.A. required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(12) "High school" means any Kentucky public high school, ***the Academy of Mathematics and Science in Kentucky,*** and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(13) "KEES" means Kentucky educational excellence scholarship;

(14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;

(15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs;

(19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 6. KRS 164.7885 is amended to read as follows:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. ***The Academy of Mathematics and Science in Kentucky shall report the data on its students with their home high schools noted to the authority.*** The list need not contain the ACT score if the authority receives the ACT score directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.

(2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.

(3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(c) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

(c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.

(4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).

(6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:

(a) In default on any loan under Title IV of the federal act; or

(b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or

(c) Liable for overpayment of any grant or loan under Title IV of the federal act; or

(d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

Section 7. The Academy of Mathematics and Science in Kentucky shall enroll its first students for the 2007-2008 academic year.

Section 8. Whereas the Academy for Mathematics and Science in Kentucky intends to enroll students for the 2007-2008 academic year and whereas there are several time-sensitive policy and operational decisions that need to be made in order to recruit and enroll the first class of students, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 373, AN ACT relating to college student financial awareness.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) As part of campus orientations for undergraduate students, public postsecondary education institutions shall provide all entering undergraduates with educational materials relating to credit cards and personal debt management and are encouraged to conduct new student informational sessions relating to these topics.

(2) As part of campus orientations for undergraduate students, nonpublic postsecondary education institutions are encouraged to provide all entering undergraduates with educational materials relating to credit cards and debt management and to conduct student informational sessions relating to credit cards and debt management.

(3) For the purposes of this section, postsecondary education institutions may utilize existing debt education materials and curricula prepared and distributed by nonprofit entities. The Council on Postsecondary Education shall assist institutions in identifying appropriate curricula and materials.

HB 380, AN ACT relating to high school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs

operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be from classification A1 or D1 schools. Following initial election of these nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even-numbered year.

(c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws that prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(d) Every local board of education shall require an annual medical examination performed and signed by a physician, physician assistant, advanced registered nurse practitioner, or chiropractor, if performed within the professional's scope of practice, for each student seeking eligibility to participate in any high school athletic activity or sport. The Kentucky Board of Education or any organization or agency designated by the state board to manage interscholastic athletics shall not promulgate administrative regulations or adopt any policies or bylaws that are contrary to the provisions of this paragraph.

(e) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only. ***An exception to the provisions of this paragraph shall be made and the student shall be eligible for high school athletics in Kentucky if the student:***

1. Qualified for exceptional children services and had an individual education program developed by an admissions and release committee (ARC) while the student was enrolled in the primary school program;

2. Was retained in the primary school program because of an ARC committee recommendation; and

3. Has not completed four (4) consecutive years or eight (8) consecutive semesters of eligibility following initial promotion from grade eight (8) to grade nine (9).

(f) If the state board or any agency designated by the state board to manage interscholastic athletics promulgates administrative regulations that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations shall apply to all sports and sports activities, including basketball and football. The administrative regulations shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

The Committee Substitute to **HB 380** is as follows:

HB 380, AN ACT relating to high school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be from classification A1 or D1 schools. Following initial election of these nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even-numbered year.

(c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws that prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(d) Every local board of education shall require an annual medical examination performed and signed by a physician, physician assistant, advanced registered nurse practitioner, or chiropractor, if performed within the professional's scope of practice, for each student seeking eligibility to participate in any high school athletic activity or sport. The Kentucky Board of Education or any organization or agency designated by the state board to manage interscholastic athletics shall not promulgate administrative regulations or adopt any policies or bylaws that are contrary to the provisions of this paragraph.

(e) Any student who turns nineteen (19) years of age prior to ***June 1***[~~August 1~~] shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after ***June 1***[~~August 1~~] shall remain eligible for that school year only.

(f) If the state board or any agency designated by the state board to manage interscholastic athletics promulgates administrative regulations that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations shall apply to all sports and sports activities, including basketball and football. The administrative regulations shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

HB 440, AN ACT relating to school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related ***and illness-related*** low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted.

(a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and

(b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175) days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the commissioner of education. The commissioner of education shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;

(11) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(13) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(14) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;

(15) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board;

(16) "National board certification salary supplement" means an annual supplement added for the life of the certificate to the base salary of a teacher who attains national board certification; and

(17) "Weather-related low attendance day" means a school day on which the district's attendance falls below the average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the commissioner of education in accordance with Kentucky Board of Education administrative regulations.

(18) "Illness-related low attendance day" means a school day on which the district's attendance falls below the average daily attendance for the prior year due to widespread student illness such as chicken pox, influenza-like illness, or any communicable disease that is required by administrative regulation to be reported to the Kentucky Department for Public Health. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to widespread student illness, for approval by the commissioner of education in accordance with Kentucky Board of Education administrative regulations.

The Committee Substitute to **HB 440** is as follows:

HB 440, AN ACT relating to school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school,[~~ adjusted for weather-related low attendance days if applicable,~~] divided by the actual number of days the school is in session, after the ***ten (10)***[~~five (5)~~] days with the lowest attendance have been deducted.

- (a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and
- (b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175) days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the commissioner of education. The commissioner of education shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;

(11) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(13) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(14) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;

(15) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board; ***and***

(16) "National board certification salary supplement" means an annual supplement added for the life of the certificate to the base salary of a teacher who attains national board certification[~~; and~~

~~(17) "Weather related low attendance day" means a school day on which the district's attendance falls below the average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the commissioner of education in accordance with Kentucky Board of Education administrative regulations~~].

HB 461, AN ACT relating to retired teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division

directors in the ***Kentucky***[~~State~~] Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The[~~ State Department of Education,~~] the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;

(h) The Office of Career and Technical Education, except that the executive director shall not be a member;

(i) The Office of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;[~~ and~~]

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000; ***and***

(p) Employees of the Kentucky Department of Education. For employees of the Kentucky Department of Education only, employment under a job description that permits experience to substitute for graduation from a four (4) year college or university shall not disqualify the employee for membership if the employee is a graduate of a four (4) year college or university.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or

secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.6455 or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 2. KRS 161.250 is amended to read as follows:

(1) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the chief state school officer, the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members ***or former members who are now annuitants of the retirement system***~~[of the teaching profession]~~, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement, or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Section 3. KRS 161.310 is amended to read as follows:

(1) The board of trustees shall from time to time promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business.

(2) All rules, regulations, or policies adopted by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to the retirement system shall conform to this chapter.

(3) All rules, regulations, or policies adopted, or decisions made, by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to retirement incentives for members as defined in KRS 161.220(4) shall contain provisions for the school district, university, or other employer to make full payment to the retirement system at the time a member retires for all actuarial obligations that occur to the retirement system as a result of retirement incentive payments. ***Any payment made by the employer to a member on the condition that the member terminate employment with the employer shall be deemed a retirement incentive for purposes of this subsection if the member retires within six (6) months following such termination in employment.*** This subsection shall not apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.

Section 4. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

(2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services***, and commodities,*** as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56, and 57, and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.

Section 5. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary or two (2) or more cobeneficiaries to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary or cobeneficiaries. The member may name more than one (1) contingent beneficiary. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary and any cobeneficiary designation and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary beneficiary, cobeneficiary, or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7). A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. ***If a member fails to designate a beneficiary, the member's estate shall be deemed to be the beneficiary. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under KRS 161.655.

Section 6. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position on a full-time basis, which would be covered if in Kentucky.

(2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher.[~~ With the exception of university faculty members,~~] All members who elect to purchase this service shall pay to the retirement system ***the full actuarial cost as defined in subsection (22) of Section 1 of this Act***[~~an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after June 30, 1983. In the event this service was rendered prior to July 1, 1983, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. Members shall pay to the retirement system the employer contribution at the rates set forth in KRS 161.550. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual~~

~~contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2)~~]. For each year of which the retirement system shall accept ***payment***[~~the contribution and interest~~], one (1) year of service credit shall be given. ***For members who purchased this service under the cost formula as it existed under this subsection on June 30, 2005,*** this credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section ***who purchased this service under the cost formula as it existed under those subsections on June 30, 2005,*** may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

(5) ***Service purchased under this section by members who at the time of purchase are employed by employers other than those described under Section 1(4)(b) or (n) of this Act shall be credited, as described under KRS 161.620(1)(a) and (b), with a retirement factor of two and one-half percent (2.5%) for each year of service that was originally performed on or after July 1, 1983, and two percent (2%) for each year of service performed before July 1, 1983. Service purchased under this section by members who at the time of purchase are employed by employers described under Section 1(4)(b) or (n) of this Act shall be credited, as described under KRS 161.620(1)(a), with a retirement factor of two percent (2%) for each year of service regardless of when the service was performed***[~~Notwithstanding any other provisions of this section to the contrary, purchase of service credit for out-of-state teaching, Kentucky Peace Corps, and federal Peace Corps service on July 1, 2005, or thereafter shall be purchasable only at full actuarial cost~~].

Section 7. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred forty dollars ($240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars ($6,600) per year or five hundred fifty dollars ($550) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars ($200) per month in the case of one (1) child, three hundred forty dollars ($340) per month in the case of two (2) children, four hundred dollars ($400) per month in the case of three (3)

children, and four hundred forty dollars ($440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section. ***Notwithstanding any provision to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under subsection (1) of this section and this subsection only if the surviving spouse is designated as the primary beneficiary and is a biological or adoptive parent of all the children eligible for a benefit under this subsection and has not had his or her parental rights terminated, or only if the surviving spouse has been appointed as legal guardian of all of the children eligible for a benefit under this subsection. To elect a lump-sum refund of the member's account under these conditions, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights, and the member's children's rights, to the survivorship benefits payable under subsection (1) of this section and this subsection. The surviving spouse may not waive the survivorship benefits available under subsection (1) of this section or this subsection if any of the member's children have attained age eighteen (18) or older unless those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.***

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section. ***Notwithstanding any provision to the contrary, the surviving spouse may not elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under subsection (1) of this section and this subsection, unless the member's children have been adjudicated incompetent to make decisions on their own behalf by a court of law and the surviving spouse has been appointed by the court as guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection. Otherwise, the surviving spouse may not waive the benefits payable under this subsection. Only spouses who are designated as the primary beneficiary may make this election. If eligible to elect a lump-sum refund of the member's account under these conditions, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights, and the member's children's rights, to the survivorship benefits payable under subsections (1) and (2) of this section and this subsection.***

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.

(8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) ***If***[~~In the event that~~] there are no eligible survivors as defined in subsections (1) to (5) of this section, ***or if the surviving spouse elects not to receive survivorship benefits on his or her own behalf and on behalf of any of the member's children as permitted under subsections (2) and (3) of this section,*** the board of trustees shall pay to the estate or ***the designated beneficiaries***[~~assigns~~] of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of the accumulated contributions.

(10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the

Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 8. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the ***primary*** beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. ***This option shall be available only during the entitlement period described under KRS 161.661(3) and (4) prior to the recalculation of the member's disability allowance under KRS 161.661(5).*** In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990.

Section 9. KRS 161.540 is amended to read as follows:

(1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university ***employees who participate in the Kentucky Teachers' Retirement System***[~~faculty members~~] shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. Payments authorized by statute that are made to retiring members for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

Section 10. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. Members placed on leave of absence ***during a period of full-time employment as defined in subsection (21) of Section 1 of this Act*** may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence ***during a period of full-time employment as defined in subsection (21) of Section 1 of this Act*** since July 1, 1964, for reasons of health as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq., child rearing, or to improve their educational qualifications, and did not ***purchase***[~~qualify at the time of~~] the leave of absence[~~ to make contributions to the retirement system for the leave of absence~~] as provided in subsection (1) of this section, may obtain credit for the leave of absence under the following conditions:

   (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted; and

   (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.

(c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.

(3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

Section 11. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, 2008:

(a)	Cost-of-Living ***2007-2008***[~~2006-2007~~] Allowance		Each Succeeding Fiscal Year
	1992-1994	***$1,125,700***[~~$2,229,400~~]	[~~$1,125,700 in 2007-2008~~]
	1994-1996	$6,142,000	$6,142,000 through 2010-2011
	1996-1998	$4,459,000	$4,459,000 through 2010-2011
	1998-2000	$15,333,900	$15,333,900 through 2012-2013 and $7,938,600 ***in***[~~through~~] 2013-2014
	2000-2002	$12,511,400	$12,511,400 through 2014-2015 and $7,227,700 in 2015-2016
	2002-2004	$21,405,700	$21,405,700 through 2021-2022 and $11,204,100 in 2022-2023
	2004-2006	$15,413,700	$15,413,700 through 2023-2024 and $7,421,400 in 2024-2025
	2006-2008	***$7,865,100***	***$15,730,200 through 2025-2026*** ***and*** ***$7,104,600 in 2026-2027***

(b)	Minimum Value ***2007-2008***[~~2006-2007~~] Annuities		Each Succeeding Fiscal Year
[	~~1992-1994~~	~~$2,217,700~~	]
	1994-1996	$2,126,000	$2,126,000 ***in***[~~through~~] 2008-2009
	2002-2004	$3,375,900	$3,375,900 through 2016-2017 and $2,027,800 in 2017-2018

(c)	Sick Leave ***2007-2008***[~~2006-2007~~] Allowance		Each Succeeding Fiscal Year	
	1998-2000	$4,660,300	$4,660,300 through and $2,425,900 ***in***[~~through~~]	2012-2013 2013-2014
	2000-2002	$6,167,100	$6,167,100 through and $3,579,100 in 2015-2016	2014-2015
	2002-2004	$5,337,000	$5,337,000 through	2021-2022

		and
		$3,022,800[~~$3,968,300~~] in 2022-2023
2004-2006	$7,261,100	***$5,480,300***[~~$7,261,100~~] through 2023-2024
		and
		$2,558,700[~~$4,339,500~~] in 2024-2025
2006-2008	***$9,211,000***[~~$4,293,800~~]	$9,211,000 through 2025-2026
		and
		$4,917,200 in 2026-2027

(2) The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal years or biennium prior to July 1, 2008:

Amortization of Transitional Funding	***2007-2008***[~~2006-2007~~]	Each Succeeding Fiscal Year
	$13,325,100	$13,325,100 through 2014-2015
		and
		$9,075,500 in 2015-2016

(3) The Kentucky Teachers' Retirement System is directed to study the feasibility of stabilizing the employer contribution rate set forth in KRS 161.550 should the state use the funding provided under this section to issue pension obligation bonds, the proceeds of which would be deposited with the Kentucky Teachers' Retirement System for investment and payment of retirement benefits. The cost of the feasibility study shall be paid by the Kentucky Teachers' Retirement System.

(4) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 12. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an election to participate in the optional retirement plan within thirty (30) days after their employment date. This election shall be irrevocable except as otherwise provided in this subsection. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. ***All elections made under this subsection shall be in writing and shall be filed with the appropriate officer of the employer institution. Persons who originally elected to participate in the optional retirement plan may later change their election only as follows:***

(a) Any person ***otherwise eligible for membership in the Kentucky Teachers' Retirement System***[~~who previously elected to participate in the optional retirement plan~~] may irrevocably elect one (1) time during his or her lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system. ***Persons exercising this election shall not be entitled to purchase as service credit in the Kentucky Teachers' Retirement System any prior service with his or her postsecondary institution employer.***

(b) Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time within his or her first six (6) years and six (6) months of continuous service in any one (1) or more of the institutions identified in subsection (4)(b) of Section 1 of this Act, to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System and also become eligible to purchase as service credit his or her prior service with his or her postsecondary education employer. This election to change from the optional retirement plan to the Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement

system's office on forms prescribed by the retirement system. Persons electing to change from the optional retirement plan to the Kentucky Teachers' Retirement System may purchase service credit only for their prior years of service for a postsecondary education institution identified under subsection (4)(b) of Section 1 of this Act during which they participated in the optional retirement plan. The election to purchase prior service as service credit shall be received in the retirement system's office on forms prescribed by the retirement system within the six (6) year and (6) month period provided to make the election to begin participation in the Kentucky Teachers' Retirement System. The cost of purchasing this service shall be calculated by adding both the employer and member contributions that would have been paid to the Kentucky Teachers' Retirement System had the individual purchasing this service participated in the Kentucky Teachers' Retirement System instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System by the postsecondary institution as provided by subsection (5) or subsection (5)(a)2. of Section 13 of this Act as they existed on June 30, 2007. Interest at Kentucky Teachers' Retirement System's actuarially assumed rate shall be paid on these net contributions by the person electing to change to the Kentucky Teachers' Retirement System from the optional retirement plan. These payments shall not be picked up as described in subsection (2) of Section 9 of this Act. Persons who elect to change from the optional retirement plan to the Kentucky Teachers' Retirement System may elect to purchase as service credit, beginning with the most recent years, any portion of their prior years of service during which they participated in the optional retirement plan, or none of those years. Members may purchase service credit for prior years of service by rolling over funds from their optional retirement plan account as provided under KRS 161.5461.

(c) Effective July 1, 2007, persons otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time to change their election and to prospectively participate in the Kentucky Teachers' Retirement System and purchase service credit for their prior years of service during which they participated in the optional retirement plan. This election shall be filed in writing with the Kentucky Teachers' Retirement System no later than December 31, 2007. Persons who change their election prior to July 1, 2007, to prospectively participate in the Kentucky Teachers' Retirement System may purchase service credit for their prior years of service during which they participated in the optional retirement plan. The purchase of prior years of service under this subsection shall be subject to the same conditions and purchase costs as described in paragraph (b) of this subsection, except that the election to purchase service credit shall be on file with the Kentucky Teachers' Retirement System no later than December 31, 2007.

(d) Persons electing to change to the Kentucky Teachers' Retirement System under paragraphs (a), (b), and (c) of this subsection shall be eligible to participate, based upon their age and allowable service credit, in the disability, survivorship, and medical insurance programs under the conditions and in the degree as they exist on the date that they file their election with the retirement system, but shall be subject to any changes to those programs from that date forward, including any changes that may affect their eligibility for or degree of participation in those programs. Prior service purchased as service credit as permitted under paragraphs (b) and (c) of this subsection shall not be considered for meeting eligibility requirements or determining the extent of participation in these programs. Persons electing to change to the Kentucky Teachers' Retirement Systems shall not be eligible for the survivorship or disability programs based upon medical conditions that existed prior to the filing of their election[~~These elections shall be made in writing and filed with the appropriate officer of the employer institution~~].

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 13. KRS 161.569 is amended to read as follows:

(1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as he is employed in a position for which the optional retirement plan is available, except as provided in KRS 161.568(1).

(2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.

(3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.

(4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement

plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(5) [~~(a)~~]Each institution shall contribute ***for each payroll period of each fiscal year***[~~on behalf of each participant in its optional retirement program the following:~~

~~1. To the designated company or companies, an amount equal to the amount that would have been payable to the Kentucky Teachers' Retirement System if the member had elected to participate in that plan instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System pursuant to subparagraph 2. of this paragraph; and~~

~~2.~~] to the Kentucky Teachers' Retirement System, an amount equal to ***five and one-tenth percent (5.1%) of the total salaries of all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System***[~~the contribution which would have been payable to the Kentucky Teachers' Retirement System on account of the unfunded liability if the member had elected to participate in that plan instead of the optional retirement plan. The rate of contribution shall be determined annually by the Kentucky Teachers' Retirement System actuary.~~] This payment shall continue to be made[~~ on behalf of all participants in the optional retirement plan~~] until July 1, ***2048***[~~2018, the current amortization period of the Kentucky Teachers' Retirement System.~~

~~(b) Each participant shall contribute an amount equal to the present member contribution to the Kentucky Teachers' Retirement System. Employee contributions to the optional retirement plan shall be made by salary reduction under either Section 403(b) or 414(h) of the Internal Revenue Code of 1986~~].

Section 14. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;

(c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement; or

(d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).

(2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees. ***A member may withdraw his or her retirement application, postpone his or her effective retirement date, or change his or her retirement option if those elections are made no later than the fifteenth day of the first month that the member has made application for retirement.***

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

Section 15. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

(1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. ***Nonqualified*** service credit purchased under the provisions of KRS 161.5465***, or elsewhere with any state-administered retirement system,*** may not be used to meet the thirty (30) year requirement set forth in this subsection. ***Out-of-state teaching service provided in public schools for kindergarten through grade twelve (12) may count toward the thirty (30) year requirement set forth in this subsection even if it is not purchased as service credit, if the member obtains from his or her out-of-state employer certification of this service on forms prescribed by the retirement system.***

(2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.

(3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.

(4) Under this section, an employer may employ full-time a number of retired members not to exceed three percent (3%) of the membership actively employed full-time by that employer. The board of trustees may reduce this three percent (3%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the three percent (3%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year.

(5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will contribute to an account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The second account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this second account shall be calculated pursuant to KRS 161.620(1)(b). This second account shall not entitle the member to a duplication of the benefits offered under KRS 161.620(7)[~~, 161.655,~~] or 161.675, nor shall this second account provide the benefits offered by KRS 161.520, 161.525, ***161.620(3), Section 22 of this Act,*** 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470.

(6) The board of trustees may annually, on July 1, adjust the current daily rate of a member's last annual compensation, for

each full twelve (12) month period that has elapsed subsequent to the member earning his or her last annual compensation, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each annual adjustment shall become part of the member's daily rate base. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations. ***Notwithstanding any other statute or provision to the contrary, members retiring from local school districts who return to work for a local school district under subsection (1) or (2) of this section shall be entitled, without any reduction to their retirement allowance or any other retirement benefit, to earn a minimum amount equal to the base contract salary for the lowest rank and step on the certified teachers' salary schedule effective at the school district for which they return to work.***

(7) (a) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.

(b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.

(c) Failure to comply with the separation-from-service requirements in this subsection voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.

(8) (a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.

(b) The Department of Education may employ retired members in full-time or part-time teaching positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection.

(9) Members who retired on or before June 30, 2002, ***and who continued employment under the one hundred (100) day provisions through the 2006-2007 fiscal year,*** may, ***through***[~~for~~] the fiscal year concluding on June 30, ***2010***[~~2007~~], ***continue to*** be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540 and members' employers shall make contributions to the

Kentucky Teachers' Retirement System at the rates specified under KRS 161.550. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002. Any member who exceeds the one hundred (100) day limitation of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefits to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding one hundred (100) days.

(10) ***Notwithstanding any statute to the contrary,*** the return to work limitations set forth in this section and KRS 161.603 shall apply to retired members who are returning to work in the same position from which they retired, ***a position described in KRS 161.046*** or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section and KRS 161.603. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection.

(11) The provisions of subsections (1) to (9) of this section are not subject to KRS 161.714.

(12) Retired members may be employed in a part-time teaching capacity by an agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. Retired members may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by an agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the retirement system. The return to work provisions set forth in subsections (1) to (9) of this section shall not apply to retired members who return to work solely for an agency described in KRS 161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined.

(13) When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (12) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (12) of this section.

(14) For retired members who return to work during any one (1) fiscal year in both a position described in KRS 161.220(4)(b) or (n) and in a position described under another provision under KRS 161.220(4), and for retired members who return to work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

Section 16. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions ***and only to the extent*** set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b) and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to

participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470.

(2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663. The board of trustees may ***permit***~~[adopt eligibility conditions under which]~~ members providing part-time or substitute services may participate in other benefits offered by the retirement system ***by promulgating administrative regulations that establish eligibility conditions for participation in those benefits***. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.

(3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.

(4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less.

(5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees.

(6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(7) The provisions of this section are not subject to KRS 161.714.

Section 17. KRS 161.614 is amended to read as follows:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

(1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.

(2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under KRS 161.220(9) and (10). The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation.

(3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.

(4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.

(5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of

litigation conducted on an administrative hearing level ***and legally binding arbitration awards*** shall be considered as court orders for the purposes of this section.

(6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS 161.500.

Section 18. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. ***Notwithstanding any statute to the contrary,***[~~Such~~] sick-leave credit ***that is accredited under this section or by one (1) of the other state-administered retirement systems*** shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance ***from the Kentucky Teachers' Retirement System***.

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(10) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

(7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10) shall be based on the full actuarial cost as defined in KRS 161.220(22).

Section 19. KRS 161.630 is amended to read as follows:

(1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

(2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:

(a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or

(b) Following marriage or remarriage, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.

(3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance option or the predetermined years certain and life thereafter option. ***A member may remove a beneficiary at any time, but may not designate a substitute beneficiary. Should a member elect to remove a beneficiary, the member's retirement allowance will not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.***

(4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

Section 20. KRS 161.640 is amended to read as follows:

(1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.

(2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.

(3) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All ***retiree, beneficiary,***[~~annuity~~] and survivor monthly allowance payments***, except as otherwise provided by this subsection,*** shall be made by electronic fund transfer by December 31, 1998. ***Except as otherwise provided in this subsection, all monthly payments shall be made payable only to an account solely in the name of the retiree, beneficiary, or survivor as an individual and natural person, or to a joint account in the name of the retiree, beneficiary, or survivor as an individual and natural person and another individual. When the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care home, monthly payments may be paid to the order of the nursing or assisted-care home for the benefit of the retiree, beneficiary, or survivor by including the retiree's, beneficiary's, or survivor's name. Monthly annuity checks paid to a nursing or assisted-care home may be sent by mail rather than electronic fund transfer.***

Section 21. KRS 161.650 is amended to read as follows:

(1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.

(2) The member may designate a primary beneficiary or two (2) or more cobeneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the cobeneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining accumulated member contributions. ***Members may designate only a single class of individuals, or trusts where otherwise permitted, as cobeneficiaries or contingent beneficiaries to share in equal proportions in any payment that may become available under this section.*** Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary, any remaining accumulated member contributions shall be payable to the member's estate.

Section 22. KRS 161.655 is amended to read as follows:

(1) Effective July 1, 2000, the Teachers' Retirement System shall:

(a) Provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and

(b) Provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.

(2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. ***Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. If a member fails to designate a beneficiary, the member's estate shall be deemed to be the beneficiary.*** Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

(3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

Section 23. KRS 161.675 is amended to read as follows:

(1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this

section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for but not be limited to hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. An annuitant whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years' creditable Kentucky service in the Teachers' Retirement System or five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680 and 61.702. ***An annuitant***~~[A member retiring under the reciprocity provisions of KRS 61.680 and 61.702]~~ may not elect coverage through more than one (1) of the state-administered retirement systems. The board of trustees shall offer coverage to the disabled child of an annuitant regardless of the disabled child's age if the annuitant pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.

(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible annuitants in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible annuitants. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible annuitants. In order to qualify for health insurance supplements made by the retirement system, the annuitant must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible annuitants not otherwise eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.

(c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of an annuitant, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.

(5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(6) The board of trustees may approve health insurance supplement payments to eligible annuitants who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by annuitants for their individual coverage. Eligible annuitants or recipients are those annuitants who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the annuitant lived in Kentucky. Eligible annuitants or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.

(7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance

fund shall not constitute taxable income to an insured recipient.

(10) In the event that a member is providing services on less than a full-time basis under KRS 161.605, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

The Committee Substitute to **HB 461** is as follows:

HB 461, AN ACT relating to retired teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the ***Kentucky***[~~State~~] Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The[~~ State Department of Education,~~] the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;

(h) The Office of Career and Technical Education, except that the executive director shall not be a member;

(i) The Office of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;[~~and~~]

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000; ***and***

(p) Employees of the Kentucky Department of Education. For employees of the Kentucky Department of Education only, employment under a job description that permits experience to substitute for graduation from a four (4) year college or university shall not disqualify the employee for membership if the employee is a graduate of a four (4) year college or university.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.6455 or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed

solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 2. KRS 161.250 is amended to read as follows:

(1) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the chief state school officer, the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members ***or former members who are now annuitants of the retirement system***[~~of the teaching profession~~], to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement, or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to

act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Section 3. KRS 161.310 is amended to read as follows:

(1) The board of trustees shall from time to time promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business.

(2) All rules, regulations, or policies adopted by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to the retirement system shall conform to this chapter.

(3) All rules, regulations, or policies adopted, or decisions made, by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to retirement incentives for members as defined in KRS 161.220(4) shall contain provisions for the school district, university, or other employer to make full payment to the retirement system at the time a member retires for all actuarial obligations that occur to the retirement system as a result of retirement incentive payments. ***Any payment made by the employer to a member on the condition that the member terminate employment with the employer shall be deemed a retirement incentive for purposes of this subsection if the member retires within six (6) months following such termination in employment.*** This subsection shall not apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.

Section 4. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

(2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services***, and commodities,*** as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56, and 57, and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.

Section 5. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary or two (2) or more cobeneficiaries to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary or cobeneficiaries. The member may name more than one (1) contingent beneficiary. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary and any cobeneficiary designation and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary beneficiary, cobeneficiary, or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7). A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. ***If a member fails to designate a beneficiary, the member's estate shall be deemed to be the beneficiary. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under KRS 161.655.

Section 6. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position on a full-time basis, which would be covered if in Kentucky.

(2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher.~~[With the exception of university faculty members,]~~ All members who elect to purchase this service shall pay to the retirement system ***the full actuarial cost as defined in subsection (22) of Section 1 of this Act***~~[an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out of state service, provided this service was rendered after June 30, 1983. In the event this service was rendered prior to July 1, 1983, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. Members shall pay to the retirement system the employer contribution at the rates set forth in KRS 161.550. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2)]~~. For each year of which the retirement system shall accept ***payment***~~[the contribution and interest]~~, one (1) year of service credit shall be given. ***For members who purchased this service under the cost formula as it existed under this subsection on June 30, 2005,*** this credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section ***who purchased this service under the cost formula as it existed under those subsections on June 30, 2005,*** may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

(5) ***Service purchased under this section by members who at the time of purchase are employed by employers other than those described under Section 1(4)(b) or (n) of this Act shall be credited, as described under KRS 161.620(1)(a) and (b), with a retirement factor of two and one-half percent (2.5%) for each year of service that was originally performed on or after July 1, 1983, and two percent (2%) for each year of service performed before July 1, 1983. Service purchased under this section by members who at the time of purchase are employed by employers described under Section 1(4)(b) or (n) of this Act shall be credited, as described under KRS 161.620(1)(a), with a retirement factor of two percent (2%) for each year of service regardless of when the service was performed***~~[Notwithstanding any other provisions of this section to the contrary, purchase of service credit for out-of-state teaching, Kentucky Peace Corps, and federal Peace Corps service on July 1, 2005, or thereafter shall be purchasable only at full actuarial cost]~~.

Section 7. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred forty dollars ($240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars ($6,600) per year or five hundred fifty dollars ($550) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars ($200) per month in the case of one (1) child, three hundred forty dollars ($340) per month in the case of two (2) children, four hundred dollars ($400) per month in the case of three (3) children, and four hundred forty dollars ($440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section. ***Notwithstanding any provision to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under subsection (1) of this section and this subsection only if the surviving spouse is designated as the primary beneficiary and is a biological or adoptive parent of all the children eligible for a benefit under this subsection and has not had his or her parental rights terminated, or only if the surviving spouse has been appointed as legal guardian of all of the children eligible for a benefit under this subsection. To elect a lump-sum refund of the member's account under these conditions, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights, and the member's children's rights, to the survivorship benefits payable under subsection (1) of this section and this subsection. The surviving spouse may not waive the survivorship benefits available under subsection (1) of this section or this subsection if any of the member's children have attained age eighteen (18) or older unless those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.***

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section. ***Notwithstanding any provision to the contrary, the surviving spouse may not elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under subsection (1) of this section and this subsection, unless the member's children have been adjudicated incompetent to make decisions on their own behalf by a court of law and the surviving spouse has been appointed by the court as guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection. Otherwise, the surviving spouse may not waive the benefits payable under this subsection. Only spouses who are designated as the primary beneficiary may make this election. If eligible to elect a lump-sum refund of the member's account under these conditions, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights, and the member's children's rights, to the survivorship benefits payable under subsections (1) and (2) of this section and this subsection.***

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall

continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.

(8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) ***If***[~~In the event that~~] there are no eligible survivors as defined in subsections (1) to (5) of this section, ***or if the surviving spouse elects not to receive survivorship benefits on his or her own behalf and on behalf of any of the member's children as permitted under subsections (2) and (3) of this section,*** the board of trustees shall pay to the estate or ***the designated beneficiaries***[~~assigns~~] of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of the accumulated contributions.

(10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 8. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the ***primary*** beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. ***This option shall be available only during the entitlement period described under KRS 161.661(3) and (4) prior to the recalculation of the member's disability allowance under KRS 161.661(5).*** In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990.

Section 9. KRS 161.540 is amended to read as follows:

(1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university ***employees who participate in the Kentucky Teachers' Retirement System***[~~faculty members~~] shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. Payments authorized by statute that are made to retiring members for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

Section 10. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-

time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. Members placed on leave of absence ***during a period of full-time employment as defined in subsection (21) of Section 1 of this Act*** may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence ***during a period of full-time employment as defined in subsection (21) of Section 1 of this Act*** since July 1, 1964, for reasons of health as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq., child rearing, or to improve their educational qualifications, and did not ***purchase***~~[qualify at the time of]~~ the leave of absence~~[to make contributions to the retirement system for the leave of absence]~~ as provided in subsection (1) of this section, may obtain credit for the leave of absence under the following conditions:

(a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted; and

(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.

(c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.

(3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

Section 11. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, 2008:

(a)

Cost-of-Living Allowance	***2007-2008***~~[2006-2007]~~	Each Succeeding Fiscal Year
1992-1994	***$1,125,700***~~[$2,229,400]~~	~~[$1,125,700 in 2007-2008]~~
1994-1996	$6,142,000	$6,142,000 through 2010-2011
1996-1998	$4,459,000	$4,459,000 through 2010-2011
1998-2000	$15,333,900	$15,333,900 through 2012-2013 and $7,938,600 ***in***~~[through]~~ 2013-2014
2000-2002	$12,511,400	$12,511,400 through 2014-2015 and $7,227,700 in 2015-2016
2002-2004	$21,405,700	$21,405,700 through 2021-2022 and $11,204,100 in 2022-2023
2004-2006	$15,413,700	$15,413,700 through 2023-2024 and $7,421,400 in 2024-2025
2006-2008	***$7,865,100***	***$15,730,200 through 2025-2026*** ***and*** ***$7,104,600 in 2026-2027***

(b)

Minimum Value Annuities	***2007-2008***~~[2006-2007]~~	Each Succeeding Fiscal Year

[~~1992-1994~~	~~$2,217,700~~	]
1994-1996	$2,126,000	$2,126,000 ***in***[~~through~~] 2008-2009
2002-2004	$3,375,900	$3,375,900 through 2016-2017 and $2,027,800 in 2017-2018

(c)	Sick Leave Allowance	***2007-2008***[~~2006-2007~~]	Each Succeeding Fiscal Year
	1998-2000	$4,660,300	$4,660,300 through 2012-2013 and $2,425,900 ***in***[~~through~~] 2013-2014
	2000-2002	$6,167,100	$6,167,100 through 2014-2015 and $3,579,100 in 2015-2016
	2002-2004	$5,337,000	$5,337,000 through 2021-2022 and ***$3,022,800***[~~$3,968,300~~] in 2022-2023
	2004-2006	$7,261,100	***$5,480,300***[~~$7,261,100~~] through 2023-2024 and ***$2,558,700***[~~$4,339,500~~] in 2024-2025
	2006-2008	***$9,211,000***[~~$4,293,800~~]	$9,211,000 through 2025-2026 and $4,917,200 in 2026-2027

(2) The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal years or biennium prior to July 1, 2008:

Amortization of Transitional Funding	***2007-2008***[~~2006-2007~~]	Each Succeeding Fiscal Year
	$13,325,100	$13,325,100 through 2014-2015 and $9,075,500 in 2015-2016

(3) The Kentucky Teachers' Retirement System is directed to study the feasibility of stabilizing the employer contribution rate set forth in KRS 161.550 should the state use the funding provided under this section to issue pension obligation bonds, the proceeds of which would be deposited with the Kentucky Teachers' Retirement System for investment and payment of retirement benefits. The cost of the feasibility study shall be paid by the Kentucky Teachers' Retirement System.

(4) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 12. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an election to participate in the optional retirement plan within thirty (30) days after their employment date. This election shall be irrevocable except as otherwise provided in this subsection. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. ***All***

elections made under this subsection shall be in writing and shall be filed with the appropriate officer of the employer institution. Persons who originally elected to participate in the optional retirement plan may later change their election only as follows:

(a) Any person ***otherwise eligible for membership in the Kentucky Teachers' Retirement System***[~~who previously elected to participate in the optional retirement plan~~] may irrevocably elect one (1) time during his or her lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system. ***Persons exercising this election shall not be entitled to purchase as service credit in the Kentucky Teachers' Retirement System any prior service with his or her postsecondary institution employer.***

(b) Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time within his or her first six (6) years and six (6) months of continuous service in any one (1) or more of the institutions identified in subsection (4)(b) of Section 1 of this Act, to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System and also become eligible to purchase as service credit his or her prior service with his or her postsecondary education employer. This election to change from the optional retirement plan to the Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the retirement system. Persons electing to change from the optional retirement plan to the Kentucky Teachers' Retirement System may purchase service credit only for their prior years of service for a postsecondary education institution identified under subsection (4)(b) of Section 1 of this Act during which they participated in the optional retirement plan. The election to purchase prior service as service credit shall be received in the retirement system's office on forms prescribed by the retirement system within the six (6) year and six (6) month period provided to make the election to begin participation in the Kentucky Teachers' Retirement System. The cost of purchasing this service shall be calculated by adding both the employer and member contributions that would have been paid to the Kentucky Teachers' Retirement System had the individual purchasing this service participated in the Kentucky Teachers' Retirement System instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System by the postsecondary institution as provided by subsection (5) of Section 13 of this Act, or subsection (5)(a)2. of Section 13 of this Act as it existed on June 30, 2007. Interest at Kentucky Teachers' Retirement System's actuarially assumed rate shall be paid on these net contributions by the person electing to change to the Kentucky Teachers' Retirement System from the optional retirement plan. These payments shall not be picked up as described in subsection (2) of Section 9 of this Act. Persons who elect to change from the optional retirement plan to the Kentucky Teachers' Retirement System may elect to purchase as service credit, beginning with the most recent years, any portion of their prior years of service during which they participated in the optional retirement plan, or none of those years. Members may purchase service credit for prior years of service by rolling over funds from their optional retirement plan account as provided under KRS 161.5461.

(c) Effective July 1, 2007, persons otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time to change their election and to prospectively participate in the Kentucky Teachers' Retirement System and purchase service credit for their prior years of service during which they participated in the optional retirement plan. This election shall be filed in writing with the Kentucky Teachers' Retirement System no later than December 31, 2007. Persons who change their election prior to July 1, 2007, to prospectively participate in the Kentucky Teachers' Retirement System may purchase service credit for their prior years of service during which they participated in the optional retirement plan. The purchase of prior years of service under this subsection shall be subject to the same conditions and purchase costs as described in paragraph (b) of this subsection, except that the election to purchase service credit shall be on file with the Kentucky Teachers' Retirement System no later than December 31, 2007.

(d) Persons electing to change to the Kentucky Teachers' Retirement System under paragraphs (a), (b), and (c) of this subsection shall be eligible to participate, based upon their age and allowable service credit, in the disability, survivorship, and medical insurance programs under the conditions and in the degree as they exist on the date that they file their election with the retirement system, but shall be subject to any changes to those programs from that date forward, including any changes that may affect their eligibility for or degree of participation in those programs. Prior service purchased as service credit as permitted under paragraphs (b) and (c) of this subsection shall not be considered for meeting eligibility requirements or determining the extent of participation in these programs. Persons electing to change to the Kentucky Teachers' Retirement Systems shall not be eligible for the survivorship or disability programs based upon medical conditions that existed prior to the filing of their election[~~These elections shall be made in writing and filed with the appropriate officer of the employer institution~~].

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the

implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 13. KRS 161.569 is amended to read as follows:

(1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as he is employed in a position for which the optional retirement plan is available, except as provided in KRS 161.568(1).

(2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.

(3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.

(4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(5) [~~(a)~~]Each institution shall contribute ***for each payroll period of each fiscal year***[~~on behalf of each participant in its optional retirement program the following:~~

~~1. To the designated company or companies, an amount equal to the amount that would have been payable to the Kentucky Teachers' Retirement System if the member had elected to participate in that plan instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System pursuant to subparagraph 2. of this paragraph; and~~

~~2.~~] to the Kentucky Teachers' Retirement System, an amount equal to ***five and one-tenth percent (5.1%) of the total salaries of all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System***[~~the contribution which would have been payable to the Kentucky Teachers' Retirement System on account of the unfunded liability if the member had elected to participate in that plan instead of the optional retirement plan. The rate of contribution shall be determined annually by the Kentucky Teachers' Retirement System actuary.~~] This payment shall continue to be made[~~ on behalf of all participants in the optional retirement plan~~] until July 1, ***2048***[~~2018, the current amortization period of the Kentucky Teachers' Retirement System.~~

~~(b) Each participant shall contribute an amount equal to the present member contribution to the Kentucky Teachers' Retirement System. Employee contributions to the optional retirement plan shall be made by salary reduction under either Section 403(b) or 414(h) of the Internal Revenue Code of 1986~~].

Section 14. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;

(c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement; or

(d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).

(2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees. ***A member may withdraw his or her retirement application, postpone his or her effective retirement date, or change his or her retirement option if those elections are made no later than the fifteenth day of the first month that the member has made application for retirement.***

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

Section 15. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

(1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. ***Nonqualified*** service credit purchased under the provisions of KRS 161.5465***, or elsewhere with any state-administered retirement system,*** may not be used to meet the thirty (30) year requirement set forth in this subsection. ***Out-of-state teaching service provided in public schools for kindergarten through grade twelve (12) may count toward the thirty (30) year requirement set forth in this subsection even if it is not purchased as service credit, if the member obtains from his or her out-of-state employer certification of this service on forms prescribed by the retirement system.***

(2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.

(3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.

(4) Under this section, an employer may employ full-time a number of retired members not to exceed three percent (3%) of the membership actively employed full-time by that employer. The board of trustees may reduce this three percent (3%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the three percent (3%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year.

(5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will contribute to an account with the retirement system that will be administered independently from and with no reciprocal impact with

the member's original retirement account. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The second account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this second account shall be calculated pursuant to KRS 161.620(1)(b). This second account shall not entitle the member to a duplication of the benefits offered under KRS 161.620(7)~~[, 161.655,]~~ or 161.675, nor shall this second account provide the benefits offered by KRS 161.520, 161.525, ***161.620(3), Section 22 of this Act,*** 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470.

(6) The board of trustees may annually, on July 1, adjust the current daily rate of a member's last annual compensation, for each full twelve (12) month period that has elapsed subsequent to the member earning his or her last annual compensation, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each annual adjustment shall become part of the member's daily rate base. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations. ***Notwithstanding any other statute or provision to the contrary, members retiring from local school districts who return to work for a local school district under subsection (1) or (2) of this section shall be entitled, without any reduction to their retirement allowance or any other retirement benefit, to earn a minimum amount equal to the base contract salary for the lowest rank and step on the certified teachers' salary schedule effective at the school district for which they return to work.***

(7) (a) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.

(b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.

(c) Failure to comply with the separation-from-service requirements in this subsection voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.

(8) (a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of

reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.

(b) The Department of Education may employ retired members in full-time or part-time teaching positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection.

(9) Members who retired on or before June 30, 2002, ***and who continued employment under the one hundred (100) day provisions through the 2006-2007 fiscal year,*** may, ***through***[~~for~~] the fiscal year concluding on June 30, ***2010***[~~2007~~], ***continue to*** be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540 and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under KRS 161.550. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002. Any member who exceeds the one hundred (100) day limitation of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefits to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding one hundred (100) days.

(10) ***Notwithstanding any statute to the contrary,*** the return to work limitations set forth in this section and KRS 161.603 shall apply to retired members who are returning to work in the same position from which they retired, ***a position described in KRS 161.046*** or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section and KRS 161.603. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection.

(11) The provisions of subsections (1) to (9) of this section are not subject to KRS 161.714.

(12) Retired members may be employed in a part-time teaching capacity by an agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. Retired members may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by an agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the retirement system. The return to work provisions set forth in subsections (1) to (9) of this section shall not apply to retired members who return to work solely for an agency described in KRS 161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined.

(13) When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (12) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (12) of this section.

(14) For retired members who return to work during any one (1) fiscal year in both a position described in KRS 161.220(4)(b)

or (n) and in a position described under another provision under KRS 161.220(4), and for retired members who return to work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

Section 16. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions ***and only to the extent*** set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b) and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470.

(2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663. The board of trustees may ***permit***[~~adopt eligibility conditions under which~~] members providing part-time or substitute services may participate in other benefits offered by the retirement system ***by promulgating administrative regulations that establish eligibility conditions for participation in those benefits***. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.

(3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.

(4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less.

(5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees.

(6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(7) The provisions of this section are not subject to KRS 161.714.

Section 17. KRS 161.614 is amended to read as follows:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

(1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the

Kentucky Teachers' Retirement System.

(2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under KRS 161.220(9) and (10). The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation.

(3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.

(4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.

(5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level ***and legally binding arbitration awards*** shall be considered as court orders for the purposes of this section.

(6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS 161.500.

Section 18. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. ***Notwithstanding any statute to the contrary,***[~~Such~~] sick-leave credit ***that is accredited under this section or by one (1) of the other state-administered retirement systems*** shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance ***from the Kentucky Teachers' Retirement System***.

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(10) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

(7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10) shall be based on the full actuarial cost as defined in KRS 161.220(22).

Section 19. KRS 161.630 is amended to read as follows:

(1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

(2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:

   (a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or

   (b) Following marriage or remarriage, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.

(3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance option or the predetermined years certain and life thereafter option. ***A member may remove a beneficiary at any time, but may not designate a substitute beneficiary. Should a member elect to remove a beneficiary, the member's retirement allowance will not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.***

(4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

Section 20. KRS 161.640 is amended to read as follows:

(1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.

(2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.

(3) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All ***retiree, beneficiary,***~~[annuity]~~ and survivor monthly allowance payments***, except as otherwise provided by this subsection,*** shall be made by electronic fund transfer by December 31, 1998. ***Except as otherwise provided in this subsection, all monthly payments shall be made payable only to an account solely in the name of the retiree, beneficiary, or survivor as an individual and natural person, or to a joint account in the name of the retiree, beneficiary, or survivor as an individual and natural person and another individual. When the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care home, monthly payments may be paid to the order of the nursing or assisted-care home for the benefit of the retiree, beneficiary, or survivor by including the retiree's, beneficiary's, or survivor's name. Monthly annuity checks paid to a nursing or assisted-care home may be sent by mail rather than electronic fund transfer.***

Section 21. KRS 161.650 is amended to read as follows:

(1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.

(2) The member may designate a primary beneficiary or two (2) or more cobeneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the cobeneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining accumulated member contributions. ***Members may designate only a single class of individuals, or trusts where otherwise permitted, as cobeneficiaries or contingent beneficiaries to share in equal proportions in any payment that may become available under this section.*** Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary, any remaining accumulated member contributions shall be payable to the member's estate.

Section 22. KRS 161.655 is amended to read as follows:

(1) Effective July 1, 2000, the Teachers' Retirement System shall:

(a) Provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and

(b) Provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.

(2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. ***Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. If a member fails***

to designate a beneficiary, the member's estate shall be deemed to be the beneficiary. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

(3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

Section 23. KRS 161.675 is amended to read as follows:

(1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for but not be limited to hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. An annuitant whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years' creditable Kentucky service in the Teachers' Retirement System or five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680 and 61.702. ***An annuitant***~~[A member retiring under the reciprocity provisions of KRS 61.680 and 61.702]~~ may not elect coverage through more than one (1) of the state-administered retirement systems. The board of trustees shall offer coverage to the disabled child of an annuitant regardless of the disabled child's age if the annuitant pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.

(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible annuitants in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible annuitants. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible annuitants. In order to qualify for health insurance supplements made by the retirement system, the annuitant must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible annuitants not otherwise eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.

(c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of an annuitant, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.

(5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the

spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(6) The board of trustees may approve health insurance supplement payments to eligible annuitants who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by annuitants for their individual coverage. Eligible annuitants or recipients are those annuitants who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the annuitant lived in Kentucky. Eligible annuitants or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.

(7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

(10) In the event that a member is providing services on less than a full-time basis under KRS 161.605, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

Section 24. This Act takes effect July 1, 2007.

HCR 75, A CONCURRENT RESOLUTION confirming the appointment of Rebecca S. Goss to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Rebecca S. Goss to the Education Professional Standards Board to replace Ann E. Carty, who has resigned, representing local boards of education for a term expiring September 18, 2010; and

WHEREAS, the House of Representatives and the Senate find that Rebecca S. Goss meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Rebecca S. Goss to the Education Professional Standards Board for a term expiring September 18, 2010.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Ms. Rebecca S. Goss, Post Office Box 1744, Harlan, Kentucky 40831 and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

The Committee on Appropriations and Revenue reported **HB 1,** with Committee Substitute attached thereto, **HB 23,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute to **HB 1** is as follows:

HB 1, AN ACT relating to appropriations and other measures line-item vetoed by the Governor at the 2006 Regular Session, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.2254 is amended to read as follows:

(1) Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the

Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:

(a) The secretary of the Personnel Cabinet shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the summary plan description for public employees covered under the self-insured plan. Prior to filing an administrative regulation with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review;

(b) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;

(c) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;

(d) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;

(e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;

(f) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;

(g) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.

(2) In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2007, the Personnel Cabinet shall offer a health reimbursement account for public employees insured under the Public Employee Health Insurance Program.

(a) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet, but not less than one hundred seventy-five dollars ($175), for that employee as an employer contribution to the health reimbursement account.

(b) The administrative fees associated with the health reimbursement account shall be an authorized expense to be charged to the public employee health insurance trust fund.

(3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. The trust fund shall not utilize funds for any other purpose, except by approval of the General Assembly. The following moneys shall be directly deposited into the trust fund:

1. Employer and employee premiums collected under the self-insured plan;
2. Interest and investment returns earned by the self-insured plan;
3. Rebates and refunds attributed to the self-insured plan; and
4. All other receipts attributed to the self-insured plan.

(b) Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraph (a) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund.

(c) The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles, ***shall be paid for by the trust fund,*** and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.

(d) ***Within forty-five (45) days of the end of each calendar quarter,*** the secretary of the Personnel Cabinet shall file a report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006. The report shall include the following:

1. The current balance of the trust fund;
2. A detailed description of all income to the trust fund since the last report;
3. A detailed description of any receipts due to the trust fund;
4. A total amount of payments made for medical claims from the trust fund;
5. A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;
6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;
7. Any other information the secretary may include;
8. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and
9. In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:
    - a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;
    - b. A statement of any other trust fund liabilities;
    - c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes;
    - d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months; and
    - e. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:
        - i. Any results or outcomes of disease management and wellness programs;
        - ii. Results of case management audits and educational and communication efforts; and
        - iii. Comparison of actual measurable results to contract performance guarantees.

Section 2. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 1. Office of the Governor, at page 1143, is amended to read as follows:

1. OFFICE OF THE GOVERNOR

	2006-07	**2007-08**
General Fund	9,734,400	9,816,100
Restricted Funds	388,200	388,200
TOTAL	10,122,600	10,204,300

(1) Housing Allowance for the Lieutenant Governor: Included in the above General Fund appropriation for the Office of the Governor and Lieutenant Governor's Office, is $2,500 monthly as a housing allowance.

(2) Governor's Scholars Program: Included in the above General Fund appropriation is $2,180,100 in fiscal year 2006-2007 and $2,297,800 in fiscal year 2007-2008 for the Governor's Scholars Program.

(3) Employees of Governor's Scholars Program, Inc.: For the purposes of salary and fringe benefits, employees of Governor's Scholars Program, Inc. shall be considered state employees.

Section 3. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 4. Homeland Security; (3) Grant Recipient Report, at page 1144, is amended to read as follows:

(3) **Grant Recipient Report:** The Kentucky Office of Homeland Security shall***, within 15 days of the final award of grants,*** report the list of recipients to the Legislative Research Commission.

Section 4. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 8. Military Affairs; (4) Patton Museum, at page 1146, is amended to read as follows:

(4) **Patton Museum:** Included in the above General Fund appropriation is an additional $500,000 in fiscal year 2006-2007 ***and $500,000 in fiscal year 2007-2008*** for the Kentucky Commission on Military Affairs to provide funds for a grant to support the operations of the Patton Museum. The Department of Military Affairs shall provide administrative support for this activity. ***It is the intent of the 2007 General Assembly that this appropriation shall be a one-time biennial appropriation and is not intended to be recurring.***

Section 5. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 11. Governor's Office for Local Development, at pages 1147 and 1148, is amended to read as follows:

11. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

	2006-07	**2007-08**
General Fund	13,498,500	20,887,400
Restricted Funds	2,585,600	2,085,600
Federal Funds	55,564,200	55,564,200
TOTAL	71,648,300	78,537,200

(1) **Flood Control Matching Fund Project Review:** The Governor's Office for Local Development shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Environmental and Public Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

(2) **Owenton/Owen County Natural Gas Line Project:** Included in the above General Fund appropriation is $234,000 in fiscal year 2007-2008 to provide new debt service for the Owenton/Owen County Natural Gas Line Project as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Support of the 12 Multicounty Regional Industrial Park Authorities:** Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2006-2007 and $300,000 in fiscal year 2007-2008 in support of the 12 multicounty regional industrial park authorities. Funds shall be distributed equally to the 12 multicounty regional industrial park authorities for marketing and maintenance of the industrial parks and the procurement of property and casualty insurance on the parks.

(4) **Buckhorn Children's Home:** Included in the above Restricted Funds appropriation is $500,000 in fiscal year 2006-2007 for a grant to the Buckhorn Children's Home.

(5) **Prior Year Funded Community Development Projects:** Notwithstanding any statutory provision or agreement between a state agency and any local government to the contrary, any fund balance remaining in any Community Development Project appropriated in 2000 Ky. Acts ch. 549, Part II, Section R, remain authorized and may be retained by the local entity and expended in a manner consistent with the intent and purpose of the appropriation. The Secretary of the Finance and Administration Cabinet, pursuant to KRS 48.500, shall make any determination necessary to effect this provision.

(6) **Debt Service - Warren County Fiscal Court - Transpark - Rail Spur:** Included in the above General Fund appropriation is $422,000 in fiscal year 2007-2008 for debt service to support $4,500,000 Bond Funds for the Warren County Fiscal Court Transpark, for Rail Spur and Infrastructure Improvements, as set forth in Part II, Capital Projects Budget, of this Act.

(7) **Jessamine County Fiscal Court - Building Restoration in Nicholasville:** Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for a grant to Jessamine County Fiscal Court for building restoration in Nicholasville.

(8) **Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia:** Included in the above General Fund appropriation is $100,000 in fiscal year 2006-2007 for a grant to Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia.

(9) **Scott County Fiscal Court - Buffalo Park Improvement and Infrastructure:** Included in the above General Fund appropriation is $150,000 in fiscal year 2006-2007 for a grant to Scott County Fiscal Court for the Buffalo Park Improvement and Infrastructure.

(10) **City of Covington - Timestar Commons - Planning:** Included in the above General Fund appropriation is $250,000 in fiscal year 2006-2007 for a grant to the City of Covington for Timestar Commons planning.

(11) **City of Ludlow - Municipal Meeting Center:** Included in the above General Fund appropriation is $225,000 in fiscal year 2006-2007 for a grant to the City of Ludlow for Phases I through III of the upgrade and renovation of the Municipal Meeting Center.

(12) **Richmond Arts Council:** Included in the above General Fund appropriation is $100,000 in fiscal year 2006-2007 and $100,000 in fiscal year 2007-2008 for a grant to the Richmond Arts Council.

(13) **Debt Service - Community Development Fund Projects:** Included in the above General Fund appropriation is $7,045,000 in fiscal year 2007-2008 for debt service to support $75,658,000 in Bond Funds for the Community Development

Fund Projects, as set forth in Part II, Capital Projects Budget, of this Act.

(14) Debt Service - Louisville Zoo - Glacier Run: Included in the above General Fund appropriation is $561,000 in fiscal year 2007-2008 for debt service on $6,000,000 in Bond Funds for the Louisville Zoo - Glacier Run project as set forth in Part II, Capital Projects Budget, of this Act.

Section 6. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 22. Agriculture, at pages 1153 and 1154, is amended to read as follows:

22. AGRICULTURE

	2006-07	**2007-08**
General Fund	19,803,100	21,529,700
Restricted Funds	4,937,200	4,548,900
Federal Funds	3,947,400	3,889,200
TOTAL	28,687,700	29,967,800

(1) **Breathitt Veterinary Center and Diagnostic Laboratories:** Included in the above General Fund appropriation is $478,500 in fiscal year 2006-2007 and $478,500 in fiscal year 2007-2008 for the Breathitt Veterinary Center at Murray State University and $478,500 in fiscal year 2006-2007 and $478,500 in fiscal year 2007-2008 for the University of Kentucky for the diagnostic laboratories.

(2) **Enforcement of Tobacco Product Sale Restrictions:** Included in the above General Fund appropriation is $260,000 in fiscal year 2006-2007 and $260,000 in fiscal year 2007-2008 to carry out the provisions of KRS 438.335.

(3) **Purchase of Agricultural Conservation Easement (PACE) Program:** The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary. The Department of Agriculture may receive funds from local and private sources to match Federal Funds for the Purchase of Agricultural Conservation Easement (PACE) Program.

(4) **Metrology Lab Operating Fees:** The Department of Agriculture may promulgate administrative regulations establishing license fees, testing fees, and any other fees necessary to operate and maintain a metrology lab in the Department of Agriculture. These Restricted Funds receipts shall be utilized for personnel and operations of the metrology lab.

(5) **County Fair Grants:** Included in the above General Fund appropriation is $495,000 in fiscal year 2006-2007 and $495,000 in fiscal year 2007-2008 to support the capital improvement grants to the Local Agricultural Fair Program.

(6) Debt Service: Included in the above General Fund appropriation is $462,000 in fiscal year 2007-2008 for debt service to support new bonds for Animal Shelters as set forth in Part II, Capital Projects Budget, of this Act.

Section 7. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 28. Kentucky River Authority; (2) Debt Service - Kentucky River Locks and Dams Maintenance and Renovations Pool, at page 1159, is amended to read as follows:

(2) **Debt Service - Kentucky River Locks and Dams Maintenance and Renovations Pool**: Included in the above ***General Fund appropriation is $1,630,000 in fiscal year 2007-2008 for debt service on $17,500,000 in Bond Funds, and in the*** Restricted Funds appropriation $3,092,000 in fiscal year 2007-2008 for debt service on $33,200,000 in Agency Bond Funds for the Kentucky River Locks and Dams Maintenance and Renovations Pool, as set forth in Part II, Capital Projects Budget, of this Act. The Agency Bonds may be issued by the State Property and Buildings Commission or the Kentucky Asset Liability Commission.

Section 8. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 29. School Facilities Construction Commission, at pages 1159 and 1160, is amended to read as follows:

29. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2006-07	**2007-08**
General Fund	107,589,000	117,974,500

(1) **Debt Service:** Included in the above General Fund appropriation is $1,688,000 in fiscal year 2006-2007 and $8,439,000 in fiscal year 2007-2008 for debt service on $150,000,000 in bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Growth Nickel Levy:** The Facilities Support Program of Kentucky is fully funded in the 2006-2008 fiscal biennium. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

(3) **School Facility Revenue:** A local board of education may commit an equivalent tax rate not to exceed five cents in addition to the taxes levied in KRS 157.440(1)(b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year and shall not be equalized with state funding. The levy shall be subject to recall.

(4) **Urgent Need School Trust Fund:** The Urgent Need School Trust Fund is established in the Finance and Administration Cabinet for the purpose of assisting school districts that have urgent and critical construction needs. The Urgent

Need School Trust Fund shall be administered by the School Facilities Construction Commission. The fund may receive state appropriations, contributions, and grants from any source which shall be credited to the trust fund and invested until needed. All interest earned on the fund shall be retained in the trust fund. Notwithstanding KRS 45.229, moneys in the trust fund shall not lapse, but shall carry forward at the end of each fiscal year.

The Secretary of the Finance and Administration Cabinet, the Commissioner of Education, and the Executive Director of the School Facilities Construction Commission shall jointly establish an Urgent Need School Trust Fund Advisory Committee to develop guidelines for the distribution of funds and to advise the School Facilities Construction Commission on the distribution of funds from this trust fund. Funds may be distributed to local school districts to address anomalies in the existing school construction funding formulas as direct grants, loans, matching funds, additional offers of assistance to address districts' unmet needs, or as equalization funds in situations where school districts have levied additional taxes for school construction purposes. The guidelines developed for distribution of funds from this trust fund shall be developed and presented to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education no later than September 31, 2006. Area Vocational Centers shall be eligible to participate in the Urgent Need School Trust Fund. Included in the above appropriation is $5,000,000 in fiscal year 2007-2008 for the Urgent Need School Trust Fund that may be distributed after July 1, 2007. In addition, funds authorized in subsections (1) and (6) of this section may be distributed to local school districts based on the guidelines developed by the Urgent Need School Trust Fund Advisory Committee after July 1, 2007.

(5) **Offers of Assistance:** Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

(6) **Additional Offers of Assistance:** Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2006-2008 biennium in anticipation of debt service availability during the 2008-2010 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2006-2008 biennium.

(7) Debt Service: Notwithstanding KRS 45.229, moneys appropriated for debt service shall not lapse but shall be credited to the Urgent Need School Trust Fund.

(8) **Administrative Costs:** The School Facilities Construction Commission may utilize up to $300,000 in each fiscal year of the 2006-2008 biennium for administrative purposes.

(9) **School Facilities Evaluation:** The Kentucky Department of Education, in partnership with the School Facilities Construction Commission, shall conduct a comprehensive evaluation of the current facilities planning process, the process for categorizing schools for planning and funding purposes, major plant maintenance planning and implementation, the process used to determine unmet school facility needs, and the degree of equity in the distribution of state capital funds. The department shall involve local superintendents, finance officers, facility managers and other local school personnel, consultants who are knowledgeable in school facilities planning and construction, and others as deemed appropriate.

The evaluation shall consider:

(a) The feasibility of adding weights for special needs or situations, including but not limited to student growth, inadequate classroom space, student accommodations, health and safety needs, compliance with the Americans with Disabilities Act, school district size, and overall building condition as certified by the Department of Education, in the calculation of unmet needs;

(b) The adequacy of long-range planning for plant maintenance, procedures for improving long-range planning, and the appropriate level of monitoring by local and state officials;

(c) Measurable, objective criteria for categorizing schools for local planning purposes and for the distribution of state capital funds;

(d) A waiver system to accommodate special facility needs;

(e) The level of technical assistance and training that is necessary to ensure that local school district personnel are knowledgeable of the facility planning process, capital construction funding mechanisms, and long-range planning and examine the most effective methods for proving technical assistance and training; and

(f) A detailed review of all capital funding sources, and a study of local effort, to include an examination of the individual and cumulative effect of multiple funding sources on the equitable distribution of state capital construction funds and the effects of permitting individual school districts to levy additional taxes for construction purposes based on special or unique circumstances in that school district.

Notwithstanding KRS 157.622, the School Facilities Construction Commission , in cooperation with the Urgent Need School Trust Fund Advisory Committee, shall incorporate the findings and recommendations of this evaluation in determining the 2006 Offers of Assistance to local school districts. The School Facilities Construction Commission is authorized to make the 2006 Offers of Assistance prior to completion of this evaluation if sufficient data and other information is available.

A preliminary report shall be made to the Interim Joint Committee on Appropriations and Revenue no later than September 15, 2006, and a final report, including recommendations for regulatory or statutory change, shall be made no later than September 30, 2006.

(10) **Use of Local District Capital Outlay Funds:** Notwithstanding KRS 157.420(4) and (6), a local district may

submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2006-2007 and fiscal year 2007-2008 without forfeiture of the district's participation in the School Facilities Construction Commission Program.

Section 9. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; B. Commerce Cabinet; 5. Parks, at pages 1163 and 1164, is amended to read as follows:

5. PARKS

	2006-07	2007-08
General Fund	27,978,400	31,145,400
Restricted Funds	55,217,700	56,335,600
TOTAL	83,196,100	87,481,000

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

(2) Debt Service: Included in the above General Fund appropriation is $3,167,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Nicholas Hildreth School:** Included in the above Restricted Funds appropriation is $60,000 in fiscal year 2006-2007 to move the Nicholas Hildreth School to Blue Licks Battlefield State Park.

(4) Buckhorn Lake State Park: Included in the above Restricted Funds appropriation is $125,000 in fiscal year 2006-2007 to construct boat slips at Buckhorn Lake State Park.

Section 10. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; B. Commerce Cabinet; 7. State Fair Board, at page 1164, is amended to read as follows:

7. STATE FAIR BOARD

	2006-07	2007-08
General Fund	396,800	553,800
Restricted Funds	37,058,600	37,821,900
TOTAL	37,455,400	38,375,700

(1) **Debt Service:** Included in the above Restricted Funds appropriation is $4,322,100 in fiscal year 2006-2007 and $4,424,400 in fiscal year 2007-2008 for previously issued bonds.

(2) Debt Service: Included in the above General Fund appropriation is $157,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

Section 11. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; D. Department of Education; 2. Operations and Support Services, at page 1167, is amended to read as follows:

2. OPERATIONS AND SUPPORT SERVICES

	2006-07	2007-08
General Fund	36,925,500	56,074,400
Restricted Funds	7,210,100	7,210,100
Federal Funds	8,527,800	8,527,800
TOTAL	52,663,400	71,812,300

(1) **Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is $2,705,600 in fiscal year 2006-2007 and $2,840,900 in fiscal year 2007-2008 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

(2) Debt Service: Included in the above General Fund appropriation is $8,898,000 in fiscal year 2007-2008 to provide for debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act. Included in the $8,898,000 is $620,000 in fiscal year 2007-2008 to provide debt service for new bonds for a high-speed education telecommunications network that supports a set of seamless P-16 management, instructional, and research applications. The network shall consist of 100 MBPS to at least 40 percent of Kentucky's local school districts and at least ten MBPS to the remaining local school districts. Included in the $8,898,000 is $696,000 in fiscal year 2007-2008 to provide debt service for a functionally robust and modern system to ensure the efficient collection and management of student information, including a unique student identifier, at the school, district, and state levels. Included in the $8,898,000 is $1,044,000 in fiscal year 2007-2008 to provide debt service for a Web-based, on-line testing program that provides a quicker return of test results, student accountability, and assessment integration into teaching and learning situations on a real-time basis. Included in the $8,898,000 is $229,000 in fiscal year 2007-2008 to provide debt service for a knowledge management portal that will provide K-12 public educators with intuitive access to indexed, aligned, and well-organized Web-based instructional resources such as units of study that connect curriculum, instruction, and assessment with other data generated by schools and the Kentucky Department of Education. Included in the $8,898,000 is $6,069,000 in fiscal year 2007-2008 to provide debt service for the purchase of modern workstations, stationary or mobile, for public K-12 schools to support advanced instructional activities, including on-line

learning and Internet 2 instructional activities. The Kentucky Board of Education shall approve a plan for distribution of the workstations. Included in the $8,898,000 is $144,000 in fiscal year 2007-2008 to provide debt service for the Rockcastle County Vocational and Technical Center. Included in the $8,898,000 is $96,000 in fiscal year 2007-2008 to provide debt service for the Letcher County Central Vocational Center.

(3) **School Technology in Coal Counties:** Included in the above Restricted Funds appropriation is $5,000,000 in each fiscal year from the Local Government Economic Development Multi-County Fund for the purpose of enhancing education technology in local school districts within coal-producing counties. The Commissioner of the Department of Education is authorized to use up to $1,000,000 of the above $5,000,000 appropriation in each fiscal year to make offers of assistance to qualifying local school districts in coal-producing counties to fund technology projects; to be eligible for these offers of assistance, local school districts may be required to provide a match of not more than two to one from any of their other funding courses. The Commissioner of the Department of Education shall use $2,500,000 of the above $5,000,000 appropriation to continue the Coal County Computing program. The Commissioner of the Department of Education shall distribute the remainder of the above $5,000,000 appropriation to coal-producing counties in a manner consistent with distributions to local school districts from the Kentucky Education Technology System; these funds shall be in addition to any regular distribution to coal-producing counties from the Kentucky Education Technology System.

(4) **Education Technology Program:** Included in the above General Fund appropriation is $19,500,000 in each fiscal year for the Education Technology Program.

Section 12. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; F. Environmental and Public Protection Cabinet; 15. Horse Racing Authority, at page 1180, is amended to read as follows:

15. HORSE RACING AUTHORITY

	2006-07	**2007-08**
General Fund	1,709,700	509,700
Restricted Funds	27,934,800	27,778,100
TOTAL	29,644,500	28,287,800

(1) Included in the above General Fund appropriation is $1,200,000 in fiscal year 2006-2007 which shall be used to replace revenue previously raised through assessments.

(2) Prohibition of Racing Dates Fee and Assessments: The Horse Racing Authority is prohibited from imposing any assessment or new fee on thoroughbred and standardbred race tracks.

(3)[~~(2)~~] **Management and Financial Audit**: A management and financial audit shall be conducted by the Auditor of Public Accounts and shall be completed by December 31, 2006. A report shall be provided to the Interim Joint Committee on Licensing and Occupations and the racing associations licensed pursuant to KRS Chapter 230.

Section 13. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; G. Finance and Administration Cabinet; 6. Commonwealth Office of Technology, at page 1184, is amended to read as follows:

6. COMMONWEALTH OFFICE OF TECHNOLOGY

	2006-07	**2007-08**
Restricted Funds	61,168,500	62,962,400
Federal Funds	863,100	775,000
TOTAL	62,031,600	63,737,400

(1) Reporting Requirements: The Commonwealth Office of Technology shall report semiannually to the Interim Joint Committee on Appropriations and Revenue the number of sole-source contracts, amounts awarded for sole-source contracts, and the purposes of the sole-source contracts; and the number of contract employees, the amount expended for contract employees, the projects contract employees worked on, and a justification why state merit employees were not used.

Section 14. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; H. Cabinet for Health and Family Services; 6. Health Policy, at page 1194, is amended to read as follows:

6. HEALTH POLICY

	2006-07	**2007-08**
General Fund	636,000	625,600
Restricted Funds	605,700	622,400
TOTAL	1,241,700	1,248,000

(1) Voluntary Relinquishment of a Certificate of Need or Licensure: Notwithstanding KRS 216B.061, following the voluntary closure of a health-care facility, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

Section 15. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; H. Cabinet for Health and Family Services; 10. Community Based Services, at pages 1195 and 1196, is amended to read as follows:

10. COMMUNITY BASED SERVICES

	2005-06	2006-07	2007-08
General Fund (Tobacco)	-0-	6,970,400	7,420,400
General Fund	-0-	316,033,500	341,729,700
Restricted Funds	-0-	133,505,800	136,301,300
Federal Funds	4,900,300	511,118,200	523,230,400
TOTAL	4,900,300	967,627,900	1,008,681,800

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $6,970,400 in fiscal year 2006-2007 and $7,420,400 in fiscal year 2007-2008 for the Early Childhood Development Program.

(2) **Out-of-Home Care:** Included in the above General Fund appropriation is $7,383,000 in fiscal year 2006-2007 and $22,962,600 in fiscal year 2007-2008 which is necessary to support and sustain the increased number of court-committed children in the care of the Cabinet.

(3) **Criminal Background Investigation Fee Establishment:** The Secretary of the Cabinet for Health and Family Services may promulgate administrative regulations necessary to prescribe criminal background investigation fee amounts which are reflected in the Restricted Funds appropriation above.

(4) **Department for Community Based Services Modernization:** Savings generated through efficiencies achieved from the modernization and streamlining of the Department for Community Based Services shall be redirected to other areas within the Department for Community Based Services to enhance adult protection services and family based services, to accommodate increased numbers of children in care, and to offset reductions in available federal funding.

(5) **Protection and Permanency Staff Technology Improvements:** Included in the above appropriation is $1,008,300 in General Fund support and $291,700 in Federal Funds in each fiscal year to provide technology improvements for each Adult Protection and Child Protection Services staff, including but not limited to new laptop or desktop computers. In addition, included in the above appropriation is $244,900 in General Fund support and $31,500 in Federal Funds in fiscal year 2006-2007 to provide digital cameras for each Adult Protection and Child Protection Services staff and a printer for each investigative team in each local office to assist in documenting abuse investigations.

(6) **Foster Parent and Adoption Assistance Rate Increases:** Included in the above appropriation to increase Foster Parent and Adoption Assistance daily reimbursement rates beginning on July 1, 2007, is $4,844,500 in General Fund moneys and $3,989,300 in Federal Funds for $3 per day in fiscal year 2007-2008.

(7) **Private Child Care Provider Rate Increases:** Included in the above appropriation to increase Private Child Care Provider reimbursement rates beginning on July 1, 2007, is $2,883,700 in General Fund moneys and $544,800 in Federal Funds for an additional $3 per day in fiscal year 2007-2008.

(8) **Performance Incentives for Hard-to-Place Youth:** Included in the above appropriation is $961,200 in General Fund moneys and $181,600 in Federal Funds in fiscal year 2007-2008 to create a pool to serve hard-to-place youth by providing performance incentives to private child care providers beginning on July 1, 2007.

(9) **Foster Youth Transitional Assistance:** Included in the above General Fund appropriation is $1,000,000 in each fiscal year to provide assistance grants or vouchers to current or former foster youth ages 18 through 23. The maximum total of grants or vouchers per youth shall be $7,500 in any one fiscal year for working youth. Youth may be eligible for an additional grant totaling $2,500 per year while attending a community college or four year college or university. Grants or vouchers from this program shall be utilized by the youth for transitional assistance into independence, including but not limited to housing, clothing, transportation, tuition, medical and dental services, and other expenses for the youth for the transition that the cabinet authorizes. The Cabinet for Health and Family Services shall promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement this program no later than October 1, 2006. ***Notwithstanding KRS 45.229, any General Fund moneys for this purpose unexpended in fiscal year 2006-2007 shall not lapse but shall carry forward into fiscal year 2007-2008 for the same purpose.***

(10) **Home of the Innocents:** Included in the above General Fund appropriation is $385,000 in fiscal year 2007-2008 for debt service to support new bonds for a matching grant to Home of the Innocents for Phase II of the Childrens' Village as set forth in Part II, Capital Projects Budget, of this Act. Up to $8,250,000 in funds generated by Home of the Innocents from other public and private sources shall be matched by the Commonwealth.

(11) Brooklawn Child and Family Services: Included in the above General Fund appropriation is $96,000 in fiscal year 2007-2008 for debt service to support new bonds for the Brooklawn Child and Family Services project as set forth in Part II, Capital Projects Budget, of this Act.

Section 16. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 1. Council on Postsecondary Education, at pages 1202 and 1203, is amended to read as follows:

1. COUNCIL ON POSTSECONDARY EDUCATION

	2006-07	2007-08
General Fund (Tobacco)	4,431,200	4,691,200

General Fund	56,931,200	95,120,700
Restricted Funds	6,610,700	6,527,900
Federal Funds	19,099,400	19,099,400
TOTAL	87,072,500	125,439,200

(1) Debt Service: Included in the above General Fund appropriation is $27,442,000 in fiscal year 2007-2008 for debt service to support new bonds for capital projects at the colleges and universities as set forth in 2006 Ky. Acts ch. 252, Part II, Capital Projects Budget and Part II, Capital Projects Budget, of this Act.

(2) Debt Service: Included in the above General Fund appropriation is $551,000 in fiscal year 2007-2008 for debt service to support new bonds for Research Support - Lab Renovation, Fit-up, and Equipment at the University of Kentucky and the University of Louisville.

(3) Debt Service: Included in the above General Fund appropriation is $917,000 in fiscal year 2007-2008 for debt service to support new bonds for Information Technology and Equipment Acquisitions.

(4) **Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Adult Education and Literacy Funding Program shall not lapse and shall carry forward.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Science and Technology Funding Program shall not lapse and shall carry forward.

(5) **Strategic Investment and Incentive Trust Funds Interest Income:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $393,900 in fiscal year 2006-2007 and $393,900 in fiscal year 2007-2008 shall be transferred from Strategic Investment and Incentive Trust Fund accounts included under these statutes to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes: $105,500 in each year of the biennium for the Minority Student College Preparation Program; $188,400 in each year of the biennium for the Southern Regional Board Doctoral Scholars Program; and $100,000 in each year of the biennium for the P-16 Council/Early Math Testing Programs.

(6) **Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(8) **Ovarian Cancer:** Notwithstanding KRS 164.476, General Fund (Tobacco) dollars in the amount of $775,000 in each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

(9) **Regional Stewardship Funding Program:** Included in the above General Fund appropriation is $1,200,000 in fiscal year 2006-2007 and $3,600,000 in fiscal year 2007-2008 for the Regional Stewardship Funding Program. The funds will be allocated among the six public comprehensive universities. Funds will be used for Regional Stewardship priorities related to collaboration with public elementary and secondary schools and regional economic development initiatives. Allocated funds will be distributed upon submission and approval of a strategic plan which determines stewardship priorities. Each institution shall submit a strategic plan for stewardship activities in priority areas to the Council on Postsecondary Education by close of business January 1, 2007. Within 30 days of receipt of the proposals, the Council on Postsecondary Education shall advise the institutions of any non-compliance or non-conformity and shall work with the institutions to help them qualify for the grants. Each institution shall submit an annual report to the Council on Postsecondary Education and to Interim Joint Appropriations and Revenue Committee by September 1 of each year. The report should include descriptions of stewardship initiatives implemented, use of funds for each initiative, and outcomes of the initiatives.

(10) **Postsecondary Education Debt:** Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has heretofore issued or caused to be issued debt obligations through a not-for-profit corporation or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to make debt obligations issued by university pursuant to this authorization shall be subject to interception of state appropriated funds pursuant to KRS 164A.608.

(11) **Postsecondary Education Employment Status:** Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined in KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

Section 17. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 2. Kentucky Higher Education Assistance Authority, at pages 1203 and 1204, is amended to read as follows:

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2006-07	**2007-08**
General Fund (Tobacco)	800,000	900,000

General Fund	164,624,300	174,304,900
Restricted Funds	39,044,500	36,219,300
Federal Funds	1,726,000	1,726,000
TOTAL	206,194,800	213,150,200

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $58,427,800 in fiscal year 2006-2007 and $60,462,000 in fiscal year 2007-2008 for the College Access Program.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $30,270,100 in fiscal year 2006-2007 and $32,476,200 in fiscal year 2007-2008 for the Kentucky Tuition Grant Program. ***All grants shall be awarded pursuant to KRS 164.785, and the applicant must be accepted by or enrolled as a full-time student at a Kentucky independent college or university which is accredited by the Southern Association of Colleges and Schools. A student who was enrolled between July 1, 2003, and the effective date of this Act in a Kentucky independent college or university that is accredited by a regional accrediting association recognized by the United States Department of Education shall remain eligible to receive a grant under this section until a bachelor's degree is attained or until July 1, 2010.***

(3) **Teacher Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $1,777,100 in fiscal year 2006-2007 and $1,777,100 in fiscal year 2007-2008 for the Teacher Scholarship Program.

(4) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $800,000 in fiscal year 2006-2007 and $900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

(5) **Kentucky National Guard Tuition Assistance Program:** Included in the above Restricted Funds appropriation is $4,500,000 in fiscal year 2006-2007 and $5,220,000 in fiscal year 2007-2008 for the Kentucky National Guard Tuition Assistance Program.

(6) **Kentucky Education Excellence Scholarships (KEES):** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $73,125,000 in fiscal year 2006-2007 and $77,565,300 in fiscal year 2007-2008 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation for KEES is $14,909,100 in fiscal year 2006-2007 and $11,345,800 in fiscal year 2007-2008.

(7) **Pharmacy Scholarship Program:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for the Pharmacy Scholarship Program as set forth in Part XXIV, Pharmacy Scholarship Program, of this Act.

(8) Transactions Involving Property and Assets: Notwithstanding any statute to the contrary, ratification by Act of the General Assembly shall be required for any transaction, agreement, or series of agreements that would:

(a) Result in dissolution or privatization of controlling managerial decision-making authority, jointly or separately, of the Kentucky Higher Education Assistance Authority or Higher Education Student Loan Corporation, except transactions or agreements specified in KRS 164.748, 164A.050, and 164A.060, or the procurement of services in the usual and ordinary course of business; or

(b) Result in transfer of ownership or control, disposition, or investment of property and assets of the Kentucky Higher Education Assistance Authority or Higher Education Student Loan Corporation, except transactions, agreements, and trust agreements in the usual and ordinary course of business; the pledging, assigning, transferring, financing, or selling of student loans or interest in student loans; the pledging or assigning of revenues and assets of either organization to further their respective purposes, continue their operation, or meet contractual and statutory commitments specifically authorized in KRS Chapters 164 and 164A; or to comply with an order of a court of competent jurisdiction.

Section 18. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 3. Eastern Kentucky University, at page 1204, is amended to read as follows:

3. EASTERN KENTUCKY UNIVERSITY

	2006-07	**2007-08**
General Fund	77,924,000	80,230,200
Restricted Funds	139,565,300	144,065,300
Federal Funds	57,172,800	57,172,800
TOTAL	274,662,100	281,468,300

(1) **Debt Service:** Included in the above General Fund appropriation is $3,030,200 in fiscal year 2006-2007 and $468,800 in fiscal year 2007-2008 for debt service for previously issued bonds.

(2) **Community Operations Board:** Included in the above General Fund appropriation is $200,000 in fiscal year 2006-2007 and $200,000 in fiscal year 2007-2008 to provide funds to the Community Operations Board for personnel and programmatic operations of the conferencing, meeting, and community areas, and the performing arts center located in Business/Technology Center, Phase II.

The Business/Technology Building, Phase II shall be governed by the Community Operations Board. The Community Operations Board shall consist of 13 members to be appointed as follows: Six by the President of Eastern Kentucky University, four by the Madison County judge/executive, two by the mayor of the City of Richmond, and one by the mayor of the City of

Berea. Three of the members appointed by the President of Eastern Kentucky University will serve two year terms and three will serve a one year term. Two of the members appointed by the Madison County judge/executive will serve two year terms and two will serve a one year term. One member appointed by the mayor of the City of Richmond will serve a two year term and one will serve a one year term. The member appointed by the mayor of the City of Berea will serve a two year term. Members of the board will serve without compensation and will not be reimbursed for expenses incurred in performance of their duties. At the first meeting of the fiscal year, the board shall elect a chairman and a vice chairman. The board will establish policies and procedures for board operations and for facility use. ***The board will make all decisions regarding use of the Business/Technology Building, Phase II including the conferencing and community areas and the performing arts center and will make all decisions regarding personnel and programmatic operations of the conferencing and community areas and the performing arts center.*** The board is attached to Eastern Kentucky University for administrative purposes, and the university shall provide all facility maintenance and operations costs.

Section 19. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 11. Kentucky Community and Technical College System, at pages 1207 and 1208, is amended to read as follows:

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2006-07	2007-08
General Fund	212,926,800	226,331,100
Restricted Funds	273,623,700	292,823,500
Federal Funds	144,916,100	153,070,400
TOTAL	631,466,600	672,225,000

(1) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is $28,330,500 in fiscal year 2006-2007 and $29,351,800 in fiscal year 2007-2008 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be $3,100 in fiscal year 2006-2007 and $3,100 in fiscal year 2007-2008. Notwithstanding KRS 95A.200 to 95A.300, $1,000,000 in fiscal year 2006-2007 and $1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be expended on firefighter training, equipment, and support activities. Notwithstanding KRS 95A.200 to 95A.300, an additional $750,000 in fiscal year 2006-2007 and $1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be spent on a comprehensive physical aptitude test program for firefighters.

(2) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.200 to 95A.265, $500,000 in Restricted Funds is provided each fiscal year of the 2006-2008 fiscal biennium for the Firefighters Training Center Fund.

(3) **Health Care Coverage:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for health care coverage for selected Kentucky Community and Technical College System employees. The University of Kentucky may recover up to $1,000,000 in fiscal year 2007-2008 from the Kentucky Community and Technical College System for additional costs associated with providing health insurance coverage to those KCTCS employees who remain in the UK personnel system. Such recovery is allowed only to the extent that UK can provide documented proof that the cost of providing health insurance coverage for those KCTCS employees exceeds collected premiums minus deductions for discounts and rebates.

(4) **Salary Increases:** It is the intent of General Assembly that employees of KCTCS who are in the UK personnel system shall be treated the same with respect to compensation plans and salary increases implemented by KCTCS as all other employees of KCTCS; specifically, KCTCS shall not utilize the practice of providing lower salary increases to KCTCS employees who are in the UK personnel system by offsetting the money paid to UK for the cost of providing health insurance to these employees.

KCTCS shall make no distinction in compensation plans or salary increases among its employees based upon the personnel system to which they belong, except that KCTCS may make up the lower salary increases given in the past to those employees of KCTCS in the UK personnel system which were based upon reimbursing UK for the cost of providing health insurance.

(5) **Family Life Skills Center:** The Kentucky Community and Technical College System is encouraged to provide funds for the Family Life Skills Center at Hazard Community and Technical College - Lees College Campus.

(6) Conveyance of Property: Notwithstanding KRS 164A.575 or KRS Chapter 45A, the Kentucky Community and Technical College System may convey fee simple title to certain of its real property located within the City of Covington, Kentucky, to the Gateway Community and Technical College Foundation, a Kentucky not-for-profit corporation, for future consideration as determined reasonable by the President of the Kentucky Community and Technical College System who is hereby authorized to execute all necessary documents and to take all necessary action to complete the foregoing conveyance.

(7) **Education Programs at Department of Corrections Facilities:** Included in the above General Fund appropriation is $5,800,000 in fiscal year 2006-2007 and $5,800,000 in fiscal year 2007-2008 for education programs at Department of Corrections Facilities. The Kentucky Community and Technical College System (KCTCS) shall continue to be the provider of educational services to the Department of Corrections (DOC). These services include adult basic education classes aimed toward acquiring a general education diploma (GED) and various technical trades aimed toward providing students with certifications and/or diplomas upon completing qualified examinations. The faculty and related staff shall remain employees of KCTCS.

KCTCS shall determine curriculum which will facilitate transferability of credits to all Kentucky public postsecondary institutions. KCTCS faculty and related staff shall abide by all rules and regulations of the DOC to ensure that DOC's accreditation requirements and rehabilitation goals are met.

(8) Maintenance and Operations of New Facilities: Included in the above General Fund appropriation is $267,800 in fiscal year 2006-2007 for maintenance and operation of new facilities coming on-line.

(9) North American Racing Academy: Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for personnel to develop the North American Racing Academy.

Section 20. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 2. Aviation, at pages 1209 and 1210, is amended to read as follows:

2. AVIATION

	2006-07	**2007-08**
Restricted Funds	197,000	172,000
Federal Funds	15,000	15,000
Road Fund	4,000,000	4,000,000
TOTAL	4,212,000	4,187,000

(1) Operational Costs: Notwithstanding KRS 183.525(5), the above Restricted Funds appropriation includes operational costs of the program in each fiscal year.

(2) Aviation Projects: The Transportation Cabinet, Aviation Development Program shall prioritize ***and fund*** the following airport projects from appropriated Road Fund resources ***in the designated fiscal year*** as included in the 2006-2012 Six Year Aviation Plan:

(a)	Bardstown-Nelson County Airport	$1,200,000
(b)	Cynthiana-Harrison County Airport	$500,000
(c)	Fleming-Mason Airport	$2,000,000
(d)	Muhlenberg County Airport	$1,000,000
(e)	Ohio County Airport	$1,000,000
(f)	Big Sandy Regional Airport	$2,500,000
(g)	Leitchfield-Grayson County Airport	$1,000,000
(h)	Madison Airport	$800,000
(i)	Lebanon-Springfield Airport	$1,000,000
(j)	Tompkinsville-Monroe County Airport	$1,000,000
(k)	Danville-Boyle County Airport	$2,000,000
(l)	Muhlenberg County Airport	$2,000,000
(m)	Henderson City County Airport	$1,000,000
(n)	Russell County Airport	$1,500,000
(o)	Powell County Airport	$1,000,000
(p)	Ohio County Airport	$1,500,000
(q)	Russellville-Logan County Airport	$2,000,000
(r)	Falmouth-Pendleton County Airport	$1,000,000

(3) Capital City Airport: No appropriations for the Aviation budget unit or the Military Affairs budget unit shall be utilized for the purpose of studying, planning, or construction of additional runways for, or expansion of, the Capital City Airport.

(4) Use of Road Fund Resources: The Cabinet may utilize an amount not to exceed $10,000,000 of its annual Road Fund appropriations for the Department of Aviation, including but not limited to providing the above authorized financial aid to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21).

(5) Aviation Plan Project Report: The Secretary of the Transportation Cabinet is directed to report quarterly to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation all activity relating to all aviation projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Aviation Plan. The Transportation Cabinet shall submit the electronic quarterly report in a format prescribed by the Legislative Research Commission.

Section 21. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 4. Highways; (25) Miscellaneous Road Fund Projects; (i) Jefferson County, Louisville Kennedy Bridge, at page 1213, is amended to read as follows:

(i) Jefferson County, Louisville Kennedy Bridge: ***The Transportation Cabinet shall*** complete the painting of the Kennedy Bridge on Interstate 65 in Louisville, Kentucky within the current biennium;

Section 22. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 4. Highways; (25) Miscellaneous Road Fund Projects; (k) Jefferson County Sound Barriers, at page 1213, is amended to read as follows:

(k) Jefferson County Sound Barriers: ***A sound barrier shall be*** installed on the north side of I-264/Watterson Expressway from the west side of the Newburg Interchange going west 1,500 feet***. The cost related to the installation of the sound barrier shall be funded for $650,000 from the Highway Construction Contingency Account in fiscal year 2006-2007***;

Section 23. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; (3) New Bond Projects, at page 1216, is amended to read as follows:

(3) **New Bond Projects:** Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The sale of bonds to finance four projects, Western Kentucky Veterans Center - Alzheimer's/General Care Unit, Acquire Land for Wendell H. Ford Regional Training Center, School Facilities Construction Commission Offers of Assistance, Louisville Arena, and Highway Bonds, shall occur after July 1, 2006.

The sale of bonds to finance the following projects shall occur after January 1, 2007:

(a) KIA Infrastructure for Economic Development for Coal Producing Counties;
(b) KIA Infrastructure for Economic Development for Non-Coal Producing Counties;
(c) Community Development Projects;
(d) Warren County Fiscal Court Transpark - Rail Spur and Infrastructure Improvements;
(e) Animal Shelters;
(f) Kentucky River Authority Locks and Dams Renovation and Maintenance Pool;
(g) The Louisville Zoo - Glacier Run;
(h) New Horse Park Indoor Arena;
(i) Rockcastle County Vocational and Technical Center;
(j) Petroleum Underground Storage Tank;
(k) CPE Capital Renewal and Maintenance Pool;
(l) KCTCS - Franklin Technology Center Project Expansion; and
(m) All Agency Bond funded projects.

The sale of all other bonds to finance the remaining projects shall occur after July 1, 2007.

Section 24. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; (5) Appropriations for Projects Not Line-Itemized, at pages 1216 and 1217, is amended to read as follows:

(5) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects; Kentucky River Authority Locks and Dams Renovation and Maintenance Pool; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Community Development projects; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects;***the Capital Renewal and Maintenance Bond*** Pool; Heritage Land Conservation projects; Flood Control projects; the Parks Renovation Pool; Parks Development Pool; the Statewide Repair, Maintenance, and Replacement Pool; the Education Technology Pool;***the Postsecondary Education Institutions Technology and Equipment Pool; the Postsecondary Education Institutions Research Support/Lab Renovation and Equipment Pool;*** the Local District Health Departments Construction Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

Section 25. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 4. Governor's Office for Local Development, at pages 1218 and 1219, is amended to read as follows:

4. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

001. Owenton/Owen County Natural Gas Line Project		
Bond Funds	5,000,000	-0-
002. Flood Control Matching Fund/State Owned Dam Repair		
General Fund	800,000	800,000

	Restricted Funds	700,000	700,000
	Investment Income	500,000	500,000
	TOTAL	2,000,000	2,000,000
003.	Warren County Fiscal Court - Transpark - Rail Spur		
	Bond Funds	4,500,000	-0-
004.	Leslie County Fiscal Court - Leslie County Six Volunteer Fire Departments - Equipment and Operations Reauthorization and Reallocation ($120,000 Restricted Funds)		

The above project is authorized from a reallocation from the Leslie County Fiscal Court - Equipment and Operations project in 2005 Ky. Acts ch., 173, Part I, A., 9.,b.

005.	Community Development Fund Projects		
	General Fund	20,650,800	8,453,000
	Bond Funds	75,658,000	-0-
	TOTAL	96,308,000	8,453,000
006.	***Louisville Zoo - Glacier Run***		
	Bond Funds	***6,000,000***	***-0-***
007.	Franklin County - Lease		

Section 26. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 8. Agriculture, at page 1219, is amended to read as follows:

8. AGRICULTURE

001.	PACE - Agriculture Enhancement Fund - Additional		
	Federal Funds	3,600,000	3,600,000
002.	Large Scale Test Truck		
	Capital Construction Surplus	175,000	-0-
003.	Forage Testing Van		
	Capital Construction Surplus	115,000	-0-
004.	Fuels/Pesticides Testing Lab		
	General Fund	-0-	1,650,000
005.	***Animal Shelters***		
	Bond Funds	***2,500,000***	***-0-***
006.	Franklin County - Lease		

Section 27. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 11. Kentucky River Authority, at page 1220, is amended to read as follows:

11. KENTUCKY RIVER AUTHORITY

001.	Kentucky River Locks and Dams Maintenance and Renovations Pool		
	Bond Funds	***17,500,000***	***-0-***
	Agency Bond Funds	33,200,000	-0-
	Restricted Funds	4,600,000	-0-
	TOTAL	55,300,000	-0-

Section 28. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; B. Commerce Cabinet; 1. Parks, at page 1220, is amended to read as follows:

1. PARKS

001.	***Parks Renovation Pool***		
	Bond Funds	***8,000,000***	***-0-***

(1) Permitted Use of Funds: These Bond Funds may be used for any Department of Parks or Kentucky Horse Park Commission facility owned, leased, or maintained by the Commonwealth.

002.	Parks Development Pool		
	Bond Funds	60,000,000	-0-

(1) Parks Development Pool: Included in the above Parks Development Pool are the following capital projects in an amount not to exceed the following:

Big Bone Lick State Park	***2,500,000***
Cumberland Falls Resort Park Campground	***5,000,000***
Cumberland Falls Resort Park Golf Course	***9,700,000***
Dale Hollow Resort Park Pool/Villas/Condos/Cabins	***7,900,000***
E. P. "Tom" Sawyer State Park Convention Center	***1,000,000***
Fort Boonesborough State Park Land Acquisition	***1,500,000***
General Burnside State Park Golf and Lodge Infrastructure	***7,250,000***
Grayson Lake State Park Villas/Condos/Cabins/Pavilion	***6,000,000***
Green River Lake State Park Infrastructure/ Development Costs	***4,000,000***
Greenbo Lake Resort Park Cottages	***1,000,000***
Herrington Lake State Park Land Acquisition and Development	***2,500,000***
John James Audubon State Park Campground and Entrance	***2,500,000***
Kincaid Lake State Park Infrastructure	***1,200,000***
Lake Cumberland Resort Park Conference Center	***6,000,000***
Nolin Lake State Park Cottages	***1,000,000***
Yatesville Lake State Park Villas/Condos/Cabins/Pavilion	***6,000,000***

003.	Construct Convention Center E. P. "Tom" Sawyer		
	Other Funds	1,000,000	-0-
004.	Maintenance Pool		
	Investment Income	2,740,000	3,990,000

Section 29. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; B. Commerce Cabinet; 3. State Fair Board, at page 1221, is amended to read as follows:

3. **STATE FAIR BOARD**

001.	Replace Roof for the Pavilion		
	Bond Funds	1,250,000	-0-
002.	Maintenance Pool		
	Restricted Funds	1,500,000	1,500,000
003.	***Upgrade HVAC Systems***		
	Bond Funds	***2,000,000***	***-0-***
004.	Replace Paving from Gate 1 to Gate 2		
	Reauthorization ($900,000 Restricted Funds)		
005.	Renovate KICC Pedway System		
	Reauthorization ($1,000,000 Restricted Funds)		
006.	Repave Parking Lots E, J, and Ashton - Adair		
	Reauthorization ($1,330,000 Restricted Funds)		

Section 30. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; D. Department of Education; 1. Operation and Support Services, at pages 1222 and 1223, is amended to read as follows:

1. **OPERATION*S* AND SUPPORT SERVICES**

001.	Kentucky Education Network		
	Bond Funds	8,900,000	-0-

The Secretary of the Education Cabinet, the Commissioner of the Department of Education, the President of the Council on Postsecondary Education, the Secretary of the Finance and Administration Cabinet, and the Executive Director of the Education Professional Standards Board shall submit a coordinated implementation plan with timelines and regular progress reports to the Interim Joint Committee on Appropriations and Revenue. All expenditures shall require the prior approval of the Secretary of the Finance and Administration Cabinet.

002.	***On-Line Assessment***		
	Bond Funds	***15,000,000***	***-0-***
003.	***Knowledge Management Portal***		
	Bond Funds	***3,250,000***	***-0-***
004.	Student Information System		

	Bond Funds		10,000,000	-0-
005.	Maintenance Pool			
	Investment Income		675,000	675,000
006.	Rockcastle County Vocational and Technical Center			
	Bond Funds		1,500,000	-0-
007.	Education Technology Pool			
	Bond Funds		50,000,000	-0-
008.	Letcher County Central Vocational Center			
	Bond Funds		2,000,000	-0-

Section 31. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; H. Health and Family Services Cabinet; 4. Community Based Services, at page 1228, is amended to read as follows:

4. COMMUNITY BASED SERVICES

001.	Boone County - Lease			
002.	Boyd County - Lease			
003.	Johnson County - Lease			
004.	Fayette County - Lease - Centre Parkway			
005.	Shelby County - Lease			
006.	Jefferson County - Lease			
007.	Fayette County - Lease			
008.	Kenton County - Lease - Madison Avenue			
009.	Hardin County - Lease			
010.	Campbell County - Lease			
011.	Warren County - Lease			
012.	Kenton County - Lease			
013.	Home of the Innocents - Phase II Children's Village			
	Bond Funds		8,250,000	-0-

(1) **Bond Issuance Contingency:** The amount of bond issuance shall be contingent upon equalizing matching funds being provided from other fund sources.

014.	***Brooklawn Child and Family Services***			
	Bond Funds		***2,000,000***	***-0-***

(1) Brooklawn Child and Family Services: The above appropriation shall be used to purchase, build, renovate, or make improvements for residential housing of children who are in or have completed the treatment program.

Section 32. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 1. Council on Postsecondary Education, at pages 1229 and 1230, is amended to read as follows:

1. COUNCIL ON POSTSECONDARY EDUCATION

001.	***Capital Renewal and Maintenance Pool***			
	Bond Funds	***-0-***	***13,927,000***	***-0-***

(1) Postsecondary Education Capital Renewal and Maintenance Pool Match: The Capital Renewal and Maintenance Pool provides funding for individual projects at Kentucky's public postsecondary institutions to upgrade and replace building systems and infrastructure in education and general facilities. The individual projects funded from this pool shall be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified by the Council. The Council shall determine the allocation of the Capital Renewal and Maintenance Pool among the postsecondary education institutions and report that allocation to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission's Capital Projects and Bond Oversight Committee. The Bond Funds in this pool shall be matched with the institutions' Restricted Funds at varying levels as determined by the Council on Postsecondary Education.

002.	Purchase KYVU/KYVL Electronic Data Bases			
	Restricted Funds	-0-	7,000,000	-0-
003.	Purchase KYVL Integrated Library System			
	Restricted Funds	-0-	4,000,000	-0-
004.	Purchase Interactive Television (ITV) System			

	Restricted Funds	-0-	800,000	-0-
005.	Purchase KYVU Centralized Hosting License			
	Restricted Funds	-0-	750,000	-0-
006.	Purchase KYVL Interlibrary Loan System			
	Restricted Funds	-0-	700,000	-0-
007.	Purchase KYVL Reference Desk Software			
	Restricted Funds	-0-	600,000	-0-
008.	KYVU/KYVL Statewide Software Licenses Pool			
	Restricted Funds	-0-	500,000	-0-
009.	Purchase Postsecondary Education Video Conference System			
	Restricted Funds	-0-	500,000	-0-
010.	Install Web site ADA Compliance Restructuring			
	Restricted Funds	-0-	500,000	-0-
011.	Franklin County - Lease			
012.	*Information Technology and Equipment Acquisitions*			
	Bond Funds	*-0-*	*10,000,000*	*-0-*
013.	*Research Support/Lab Renovation and Equipment*			
	Bond Funds	*-0-*	*6,000,000*	*-0-*

Section 33. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 3. Eastern Kentucky University, at pages 1230 and 1231, is amended to read as follows:

3. EASTERN KENTUCKY UNIVERSITY

001.	*Construct New Student Housing*			
	Agency Bonds	*-0-*	*10,520,000*	*-0-*
002.	*EKU-UK Dairy Research Project (Meadowbrook Farm)*			
	Bond Funds	*-0-*	*5,300,000*	*-0-*
003.	Arlington Renovation and Addition			
	Other Funds	-0-	4,000,000	-0-
004.	Library Studio for Academic Creativity			
	Restricted Funds	-0-	-0-	1,500,000
005.	Expand and Renovate Presnell Building - Additional Reauthorization ($1,000,000 Restricted Funds)			
	Restricted Funds	-0-	1,200,000	-0-
006.	Expand Indoor Tennis Facility - Additional Reauthorization ($1,000,000 Restricted Funds)			
	Restricted Funds	-0-	100,000	-0-
007.	Construct E & G Life Safety Begley Elevator Reauthorization ($750,000 Restricted Funds)			
008.	Guaranteed Energy Savings Performance Contracts			
009.	Construct Science Building			
	Bond Funds	-0-	54,108,000	-0-
010.	Construct Manchester Postsecondary Education Center			
	Bond Funds	-0-	3,500,000	-0-

Section 34. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 4. Kentucky State University, at pages 1231 and 1232, is amended to read as follows:

4. KENTUCKY STATE UNIVERSITY

001.	Construct New Young Hall - Phase II			
	Other Funds	-0-	-0-	6,500,000
002.	Construct Center for Training & Learning			
	Federal Funds	-0-	2,755,000	-0-

003.	Upgrade On-line Infrastructure			
	Restricted Funds	-0-	2,190,000	-0-
004.	Create Center for Families and Children			
	Federal Funds	-0-	2,022,000	-0-
005.	Acquire Property Related to Master Plan			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	1,000,000	-0-
	TOTAL	-0-	2,000,000	-0-
006.	Roof Repair & Replacement Pool			
	Restricted Funds	-0-	1,520,000	-0-
	Federal Funds	-0-	400,000	-0-
	TOTAL	-0-	1,920,000	-0-
007.	Capital Renewal Pool			
	Restricted Funds	-0-	1,899,000	-0-
008.	Renovate Jackson Hall			
	Restricted Funds	-0-	140,000	-0-
	Federal Funds	-0-	1,488,000	-0-
	TOTAL	-0-	1,628,000	-0-
009.	Upgrade On-line Security			
	Restricted Funds	-0-	1,500,000	-0-
010.	Expand Aquaculture Pond Facilities			
	Federal Funds	-0-	1,430,000	-0-
011.	Construct Aquaculture Production Tech Lab			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	200,000	-0-
	TOTAL	-0-	1,200,000	-0-
012.	Life Safety Upgrade Pool			
	Restricted Funds	-0-	1,040,000	-0-
013.	Replace On-line Voice - Centrex			
	Restricted Funds	-0-	587,000	-0-
014.	Guaranteed Energy Savings Performance Contracts			
015.	***Expand and Renovate Betty White Nursing Building***			
	Bond Funds	***-0-***	***4,900,000***	***-0-***
016.	Construct New Residence Hall			
	Other Funds	-0-	20,000,000	-0-
017.	Renovate Hathaway Hall, Phase II			
	Bond Funds	-0-	4,920,000	-0-
018.	***Construct Parking Structure***			
	Agency Bonds	***-0-***	***7,000,000***	***-0-***

Section 35. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 5. Morehead State University, at pages 1232 to 1234, is amended to read as follows:

5. MOREHEAD STATE UNIVERSITY

001.	Construct Center for Health, Education, and Research			
	Bond Funds	-0-	23,000,000	-0-
002.	Renovate Jayne Stadium			
	Restricted Funds	-0-	8,400,000	-0-
003.	Construct East Kentucky Animal Science Center			
	Federal Funds	-0-	8,000,000	-0-
004.	Major Item of Equipment Pool			

	Restricted Funds	-0-	2,752,000	3,400,000
005.	Construct Kentucky Mountain Crafts Center			
	Restricted Funds	-0-	5,434,000	-0-
006.	Construct Law Enforcement Complex			
	Federal Funds	-0-	5,215,000	-0-
007.	Upgrade Instructional PCs/LANS/Peripherals			
	Restricted Funds	-0-	5,000,000	-0-
008.	Enhance Network/Infrastructure Resources			
	Restricted Funds	-0-	4,750,000	-0-
009.	Renovate McClure Pool Area			
	Restricted Funds	-0-	4,715,000	-0-
010.	Renovate John Sonny Allen Field			
	Restricted Funds	-0-	4,166,000	-0-
011.	Replace Power Plant Pollution Control System			
	Restricted Funds	-0-	3,540,000	-0-
012.	Capital Renewal Pool - E&G			
	Restricted Funds	-0-	3,480,000	-0-
013.	Renovate Button Auditorium			
	Restricted Funds	-0-	3,000,000	-0-
014.	Upgrade Administrative Office Systems			
	Restricted Funds	-0-	2,500,000	-0-
015.	Acquire Land Related to Master Plan			
	Restricted Funds	-0-	2,000,000	-0-
016.	Construct Softball Facility/Lighting Project			
	Restricted Funds	-0-	1,700,000	-0-
017.	Comply with ADA - E&G			
	Restricted Funds	-0-	850,000	850,000
018.	Capital Renewal Pool -Auxiliary			
	Restricted Funds	-0-	1,618,000	-0-
019.	Upgrade and Expand Distance Learning			
	Restricted Funds	-0-	1,500,000	-0-
020.	Expand Student Wellness Center			
	Restricted Funds	-0-	1,200,000	-0-
021.	Comply with ADA - Auxiliary			
	Restricted Funds	-0-	600,000	600,000
022.	Replace Boiler Tubes			
	Restricted Funds	-0-	800,000	-0-
023.	Reconstruct Central Campus			
	Restricted Funds	-0-	780,000	-0-
024.	Enhance Library Automation Resources			
	Restricted Funds	-0-	670,000	-0-
025.	Expand Life Safety Claypool-Young Building			
	Restricted Funds	-0-	600,000	-0-
026.	Renovate Molecular Biology Student Lab			
	Restricted Funds	-0-	474,000	-0-
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Equine Hospital			
	Restricted		1,069,000	-0-
029.	***Construct Student Recreation Center***			

	Agency Bonds	***-0-***	***17,000,000***	***-0-***
030.	***Renovate Student Housing Facilities***			
	Agency Bonds	***-0-***	***10,000,000***	***-0-***
031.	Space Science Center - Completion			
	Bond Funds	-0-	3,400,000	-0-
032.	***Construct Business Continuance Datacenter***			
	Bond Funds	***-0-***	***2,500,000***	***-0-***

Section 36. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 6. Murray State University, at pages 1234 and 1235, is amended to read as follows:

6. MURRAY STATE UNIVERSITY

001.	New Residential College - Richmond Hall			
	Agency Bonds	-0-	13,077,000	-0-
002.	Capital Renewal E&G Pool			
	Restricted Funds	-0-	12,457,000	-0-
003.	Administrative Enterprise Resource Planning System			
	Restricted Funds	-0-	8,000,000	-0-
004.	Capital Renewal H&D Pool			
	Restricted Funds	-0-	5,445,000	-0-
005.	Renovate Pogue Library			
	Restricted Funds	-0-	4,000,000	-0-
006.	Renovate Ordway Hall			
	Restricted Funds	-0-	3,962,000	-0-
007.	ADA Compliance E&G Pool			
	Restricted Funds	-0-	3,092,000	-0-
008.	Centralized Technology Refresh Program			
	Restricted Funds	-0-	2,600,000	-0-
009.	Telephone Switching System - Additional Reauthorization ($1,525,000 Restricted Funds)			
	Restricted Funds	-0-	1,975,000	-0-
010.	Renovate White Hall HVAC System			
	Restricted Funds	-0-	1,000,000	-0-
011.	Campus Backbone 10 GigE Upgrade			
	Restricted Funds	-0-	775,000	-0-
012.	Construct Open-Sided Stall Barn at Expo Center			
	Restricted Funds	-0-	770,000	-0-
013.	ADA Compliance H&D Pool			
	Restricted Funds	-0-	615,000	-0-
014.	Life Safety Projects E&G Pool			
	Restricted Funds	-0-	590,000	-0-
015.	Central Processing Computer System Upgrade			
	Restricted Funds	-0-	522,000	-0-
016.	On-line Centralized Data Access/Warehouse			
	Restricted Funds	-0-	520,000	-0-
017.	Acquire Land			
	Restricted Funds	-0-	501,000	-0-
018.	Renovate A. Carman Pavilion - Phase II			
	Restricted Funds	-0-	500,000	-0-
019.	Renovate Wells Hall Interior			
	Restricted Funds	-0-	500,000	-0-

020.	Construct Public Safety Building- Additional Reauthorization ($1,500,000 Restricted Funds)			
	Restricted Funds	-0-	500,000	-0-
021.	Life Safety Projects H&D Pool			
	Restricted Funds	-0-	300,000	-0-
022.	Abate Asbestos H&D Pool			
	Restricted Funds	-0-	276,000	-0-
023.	Guaranteed Energy Savings Performance Contracts			
024.	Construct New Science Complex - Phase III			
	Bond Funds	-0-	15,000,000	-0-
025.	***Replace Franklin Hall***			
	Agency Bonds	***-0-***	***13,077,000***	***-0-***
026.	***Renovate Curris Center T-Room***			
	Agency Bonds	***-0-***	***750,000***	***-0-***

Section 37. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 8. University of Kentucky, at page 1237, is amended to read as follows:

8. UNIVERSITY OF KENTUCKY

001.	Construct Patient Care Facility Phase II - Hospital			
	Restricted Funds	-0-	25,000,000	-0-
	Agency Bonds	-0-	150,000,000	-0-
	TOTAL	-0-	175,000,000	-0-
002.	Construct Biological/Pharmaceutical Complex - Phase II			
	Bond Funds	-0-	79,892,000	-0-
003.	Major Item of Equipment Pool			
	Restricted Funds	-0-	195,164,000	-0-
	Federal Funds	-0-	3,100,000	-0-
	TOTAL	-0-	198,264,000	-0-
004.	Capital Renewal Pool Phase I			
	Restricted Funds	-0-	31,607,000	-0-
005.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital			
	Restricted Funds	-0-	24,271,000	-0-
006.	Lease-Purchase ERP System - Phase II			
	Restricted Funds	-0-	20,000,000	-0-
007.	Expand Ambulatory Care Facilities - Hospital			
	Restricted Funds	-0-	20,000,000	-0-
008.	Construct Primary Care Center II - Hospital			
	Restricted Funds	-0-	17,237,000	-0-
009.	Replace Air Handling Unit I - Hospital			
	Restricted Funds	-0-	16,165,000	-0-
010.	Construct Patient Care Facility II - Hospital			
	Restricted Funds	-0-	15,909,000	-0-
011.	Acquire Land			
	Restricted Funds	-0-	15,000,000	-0-
012.	Construct Facilities Support Building - Hospital			
	Restricted Funds	-0-	14,728,000	-0-
013.	Medicine/Dentistry Building - Design			
	Restricted Funds	-0-	14,000,000	-0-
014.	***Expand and Upgrade LDDC Phase II***			
	Bond Funds	***-0-***	***13,500,000***	***-0-***

Section 38. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 8. University of Kentucky, at page 1251, is amended to read as follows:

	Restricted Funds	-0-	3,310,000	-0-
	TOTAL	-0-	4,310,000	-0-
256.	Renovate Memorial Coliseum			
	Other Funds	-0-	4,731,000	-0-
257.	Construct Commonwealth Stadium Suite Addition			
	Other Funds	-0-	2,300,000	-0-
258.	Construct New Alumni Center			
	Other Funds	-0-	17,344,000	-0-
259.	Gluck Equine Research Center – Phase II – Design			
	Other Funds	-0-	1,500,000	-0-
	Restricted Funds	-0-	2,000,000	-0-
	TOTAL	-0-	3,500,000	-0-
260.	KY Transportation Center Building – Phase I – Design			
	Other Funds	-0-	1,500,000	-0-
	Federal Funds	-0-	2,500,000	-0-
	TOTAL	-0-	4,000,000	-0-
261.	Expand Arboretum Visitor Center			
	Other Funds	-0-	2,870,000	-0-
262.	Biomedical Research Building – Design			
	Restricted Funds	-0-	7,600,000	-0-
263.	Renovate Student Center Food Court			
	Restricted Funds	-0-	1,643,000	-0-
264.	Renovate K-Lair Building			
	Restricted Funds	-0-	4,650,000	-0-
265.	Renovate SECAT Building at Coldstream			
	Restricted Funds	-0-	2,000,000	-0-
266.	Purchase Furniture and Equipment – Patient Care Facility			
	Restricted Funds	-0-	27,000,000	-0-
268.	***Renovate Blazer Hall Cafeteria***			
	Agency Bonds	***-0-***	***3,010,000***	***-0-***
269.	Fayette County - Administrative - Office Lease			
270.	Fayette County - Health Affairs - Office Lease 2			
271.	Fayette County – Health Affairs - Office Lease 3			
272.	Fayette County - Health Affairs - Office Lease			
273.	Fayette County - Lease - Blazer Parkway			
274.	Fayette County - Lease - Med Center Contract			

Section 39. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 9. University of Louisville, at pages 1252 to 1255, is amended to read as follows:

9. UNIVERSITY OF LOUISVILLE

001.	Construct HSC Research Facility Phase III - Additional			
	Bond Funds	-0-	69,680,000	-0-
002.	Construct Center for Predictive Medicine			
	Federal Funds	-0-	22,200,000	-0-
	Agency Bonds	-0-	13,000,000	-0-
	TOTAL	-0-	35,200,000	-0-
003.	Renovate Ekstrom Library			
	Restricted Funds	-0-	22,081,000	-0-

004.	Capital Renewal Pool			
	Restricted Funds	-0-	22,000,000	-0-
005.	Major Item of Equipment Pool			
	Restricted Funds	-0-	100,000	1,700,000
	Federal Funds	-0-	7,501,000	3,290,000
	Other Funds	-0-	6,250,000	2,470,000
	TOTAL	-0-	13,851,000	7,460,000
006.	Expand & Renovate - Founders Union Building			
	Restricted Funds	-0-	12,190,000	-0-
007.	Utility Distribution - South Belknap Campus			
	Restricted Funds	-0-	6,821,000	-0-
008.	Construct Student Health Facility			
	Restricted Funds	-0-	6,650,000	-0-
009.	Renovate Kersey Library			
	Restricted Funds	-0-	4,630,000	-0-
010.	Renovate Medical School Tower - 55A, Phase II			
	Restricted Funds	-0-	4,225,000	-0-
011.	Purchase Digital Communications System			
	Restricted Funds	-0-	4,000,000	-0-
012.	Purchase Real Estate Near Health Sciences Campus - Parcel II			
	Restricted Funds	-0-	3,875,000	-0-
013.	Renovate Code Improvement Pool			
	Restricted Funds	-0-	3,191,000	-0-
014.	Purchase Networking System			
	Restricted Funds	-0-	3,000,000	-0-
015.	Purchase Enterprise Application System			
	Restricted Funds	-0-	2,000,000	-0-
016.	Purchase Computer Processing System			
	Restricted Funds	-0-	2,000,000	-0-
017.	Expand & Renovate Oppenheimer Hall - Additional Reauthorization ($6,276,000 Restricted Funds)			
	Restricted Funds	-0-	1,654,000	-0-
018.	Purchase Electronic Research Information System			
	Restricted Funds	-0-	1,080,000	-0-
019.	Purchase Robotic Telescope System			
	Federal Funds	-0-	1,000,000	-0-
020.	Purchase Storage System			
	Restricted Funds	-0-	1,000,000	-0-
021.	Lease Digital Output System			
	Restricted Funds	-0-	1,000,000	-0-
022.	Lease-Purchase Visualization System			
	Restricted Funds	-0-	1,000,000	-0-
023.	Purchase Artificial Turf Practice Field Facility			
	Restricted Funds	-0-	750,000	-0-
024.	Housing Capital Renewal Pool			
	Restricted Funds	-0-	710,000	-0-
025.	Purchase Health Research Data System			
	Restricted Funds	-0-	700,000	-0-

026.	Renovate Natural Science Building - Additional Reauthorization ($12,840,000 Restricted Funds)			
	Restricted Funds	-0-	540,000	-0-
027.	Shelby Campus Dormitories Demolition			
	Restricted Funds	-0-	436,000	-0-
028.	Purchase New Computers for CBPA			
	Restricted Funds	-0-	300,000	-0-
029.	Purchase PCs, Printers, Scanners			
	Restricted Funds	-0-	200,000	-0-
030.	Purchase Linux Cluster Computer System			
	Restricted Funds	-0-	125,000	-0-
031.	Renovate Chemistry Fume Hood Redesign, Phase II - Additional Reauthorization ($4,534,000 Restricted Funds)			
	Restricted Funds	-0-	76,000	-0-
032.	Construct Athletic Academic Support Facility			
	Other Funds	-0-	5,000,000	-0-
033.	Construct Boathouse for Women's Rowing Program			
	Other Funds	-0-	2,947,000	-0-
034.	Construct Cardinal Club Golf Practice Facility			
	Other Funds	-0-	685,000	-0-
035.	Construct Diversity Center for Excellence			
	Other Funds	-0-	-0-	5,898,000
036.	Construct Executive MBA/Business Program			
	Other Funds	-0-	6,040,000	-0-
	Restricted Funds	-0-	20,500,000	-0-
	TOTAL	-0-	26,540,000	-0-
037.	Construct Glass and Visual Arts Research Center			
	Other Funds	-0-	3,015,000	-0-
038.	Construct Eastern Parkway Improvement			
	Restricted Funds	-0-	2,200,000	-0-
039.	Expand Tragar Field Hockey Stadium			
	Other Funds	-0-	3,200,000	-0-
040.	Expand and Renovate Dental School			
	Other Funds	-0-	2,000,000	-0-
	Restricted Funds	-0-	35,170,000	-0-
	TOTAL	-0-	37,170,000	-0-
041.	Purchase Support Service Land (Northeast Quad)			
	Restricted Funds	-0-	5,095,000	-0-
042.	Renovate PJCS Scoreboard/Video Replacement			
	Other Funds	-0-	1,800,000	-0-
043.	Renovate Life Sciences Building			
	Restricted Funds	-0-	18,240,000	-0-
046.	***Renovate Miller Hall***			
	Agency Bonds	***-0-***	***11,541,000***	***-0-***
048.	Construct Utilities, Remove Overhead Lines Reauthorization ($3,194,000 Restricted Funds)			
049.	Expand Ambulatory Care Building Academic Addition Reauthorization ($43,061,800 Restricted Funds)			
050.	Purchase Real Estate Near HSC and Renovate Offices			

Reauthorization ($20,500,000 Restricted Funds)

051. Renovate Shelby Campus Infrastructure
Reauthorization ($8,740,000 Restricted Funds)

052. Jefferson County - Lease

053. Medical Center One - Lease

054. Guaranteed Energy Savings Performance Contracts

Section 40. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 10. Western Kentucky University, at pages 1255 and 1256, is amended to read as follows:

10. WESTERN KENTUCKY UNIVERSITY

001.	Renovate Academic/Athletic #2			
	Restricted Funds	-0-	2,000,000	-0-
	Agency Bonds	-0-	25,500,000	-0-
	Other Funds	-0-	1,000,000	-0-
	TOTAL	-0-	28,500,000	-0-
002.	***Renovate Science Campus Phase III***			
	Bond Funds	***-0-***	***9,000,000***	***-0-***
003.	***Construct Materials Characterization/ICSET Phase II***			
	Bond Funds	***-0-***	***4,500,000***	***-0-***
004.	Construct Agriculture Research Services Lab			
	Federal Funds	-0-	22,825,000	-0-
005.	Capital Projects Pool			
	Restricted Funds	-0-	10,195,000	-0-
006.	***Replace Building Ford College Business - Grise Hall, Phase I***			
	Bond Funds	***-0-***	***5,800,000***	***-0-***
007.	Renovate Electrical Distribution - Phase V			
	Restricted Funds	-0-	4,500,000	-0-
008.	Renovate Downing University Center			
	Restricted Funds	4,320,000	-0-	-0-
009.	Renovation & Expansion of Carroll Knicely Center			
	Restricted Funds	-0-	3,500,000	-0-
010.	Replace Steam Line			
	Restricted Funds	-0-	3,000,000	-0-
011.	Purchase Property for Campus Expansion			
	Restricted Funds	-0-	3,000,000	-0-
012.	Upgrade IT Infrastructure			
	Restricted Funds	-0-	2,000,000	-0-
013.	Construct Central Reg. Postsecondary Education Center Phase II			
	Restricted Funds	-0-	2,000,000	-0-
014.	Renovate Environmental Science & Technology HVAC & Electrical System			
	Restricted Funds	-0-	2,000,000	-0-
015.	Renovate Academic Complex Phase I			
	Restricted Funds	-0-	1,323,000	-0-
016.	Renovate Agriculture Expo Center HVAC System			
	Restricted Funds	-0-	930,000	-0-
017.	Convert WKYU-NPR-and WKYU-PS to Digital			
	Restricted Funds	-0-	500,000	-0-
018.	Renovation of Faculty House			
	Restricted Funds	-0-	500,000	-0-
019.	Replace College of Education Building - Tate Page Hall			

	Bond Funds	-0-	35,000,000	-0-
020.	***Acquire Property and Construct Parking Lots***			
	Agency Bonds	***-0-***	***4,000,000***	***-0-***
021.	***Expand Preston Center***			
	Agency Bonds	***-0-***	***10,000,000***	***-0-***
022.	Construct Mesonet Weather Monitoring System			
	Federal Funds	-0-	3,000,000	-0-
023.	***Van Meter Hall Renovation***			
	Agency Bonds	***-0-***	***16,000,000***	***-0-***
024.	***Ivan Wilson Fine Arts Center Expansion***			
	Agency Bonds	***-0-***	***8,000,000***	***-0-***
025.	Guaranteed Energy Savings Performance Contracts			

Section 41. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 11. Kentucky Community and Technical College System, at pages 1256 to 1258, is amended to read as follows:

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

001.	Advanced Manufacturing Technology Center - Gateway Community and Technical College - Design			
	Bond Funds	-0-	28,000,000	-0-
002.	Construct Emerging Technology Center - West KY CTC			
	Bond Funds	-0-	16,518,000	-0-
003.	Construct Allied Health/Technical Education Building - Laurel Campus			
	Bond Funds	-0-	14,015,000	-0-
004.	Major Item of Equipment Pool			
	Restricted Funds	-0-	22,717,000	-0-
005.	Capital Renewal Pool			
	Restricted Funds	-0-	15,000,000	-0-
006.	Complete Acquisition of System Office & Expansion			
	Restricted Funds	-0-	10,000,000	-0-
007.	Land Acquisition Pool			
	Restricted Funds	-0-	5,500,000	-0-
008.	Construct Administration Building, Phase I - Maysville CC			
	Bond Funds	-0-	5,008,000	-0-
009.	Construct Licking Valley Center Phase II - Maysville CTC - Additional			
	Restricted Funds	-0-	3,459,000	-0-
	Bond Funds	***-0-***	***1,000,000***	***-0-***
	Other Funds	-0-	1,500,000	-0-
	TOTAL	-0-	5,959,000	-0-
010.	Renovate Gray Building - Madisonville CC			
	Restricted Funds	-0-	3,600,000	-0-
011.	Renovate KY School of Craft - Hazard CTC			
	Restricted Funds	-0-	2,649,000	-0-
	Federal Funds	-0-	250,000	-0-
	TOTAL	-0-	2,899,000	-0-
012.	Construct Child Development Center - Henderson CC			
	Federal Funds	-0-	250,000	-0-
	Other Funds	-0-	2,385,000	-0-
	TOTAL	-0-	2,635,000	-0-
013.	Renovate Anderson Building - West KY CTC			
	Restricted Funds	-0-	1,395,000	-0-

014.	Renovate Simulated Mine - Harlan Campus			
	Restricted Funds	-0-	1,380,000	-0-
015.	Greenspace Development - Big Sandy CTC Mayo Campus			
	Restricted Funds	-0-	1,083,000	-0-
016.	Renovate Administrative Building - Whitesburg Campus SEKYCTC			
	Restricted Funds	-0-	898,000	-0-
017.	Renovate Administrative Building - Elizabethtown CTC			
	Restricted Funds	-0-	850,000	-0-
018.	Master Plan Development & Upgrade Pool			
	Restricted Funds	-0-	850,000	-0-
019.	Pedestrian/Vehicular Connector - Somerset Community College - Additional			
	Restricted Funds	-0-	649,000	-0-
020.	Bluegrass CTC - Winchester Facility			
	Other Funds	-0-	500,000	-0-
021.	KCTCS Information Technology Infrastructure Upgrade Reauthorization ($12,000,000 Restricted Funds)			
022.	Scott County - Lease			
023.	Woodford County -City of Versailles - Lease-Purchase			
024.	Jefferson County - Lease			
025.	Henderson County - Lease			
026.	Guaranteed Energy Savings Performance Contracts			
027.	Construct Science/Allied Health Building - Jefferson CTC			
	Bond Funds	-0-	25,557,000	-0-
028.	Construct Central Regional Postsecondary Education Center Phase II - Elizabethtown CTC			
	Bond Funds	-0-	20,000,000	-0-
029.	Madisonville Postsecondary Education Center - Design			
	General Fund	-0-	300,000	-0-
030.	Advance Manufacturing Center - Design - Bluegrass CTC			
	Bond Funds	-0-	1,500,000	-0-
031.	Franklin Technology Center - Expansion			
	Bond Funds	-0-	2,700,000	-0-
032.	***Construct Carrollton Campus - Jefferson CTC***			
	Bond Funds	***-0-***	***12,000,000***	***-0-***
033.	Construct Tech Drive Campus, Phase III - Ashland CTC			
	Bond Funds	-0-	17,600,000	-0-
034.	***Energy and Advanced Technology Center - Madisonville CTC***			
	Bond Funds	***-0-***	***4,000,000***	***-0-***
035.	Springfield Community and Technical College			
	Bond Funds	-0-	14,500,000	-0-
036.	McCreary Center - Somerset CC			
	Bond Funds	-0-	6,500,000	-0-
037.	Mercer County Technical Center			
	Bond Funds	-0-	4,000,000	-0-
038.	***Advanced Technology Center - Owensboro CTC***			
	Bond Funds	***-0-***	***14,055,000***	***-0-***
039.	***Rowan County Campus - Maysville CTC - Design***			
	Bond Funds	***-0-***	***1,500,000***	***-0-***

Section 42. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget, on page 1259, after L. Transportation

Cabinet, after item 019., the following is added:

M. COAL SEVERANCE TAX PROJECTS

(1) Projects Authorization and Appropriation: Notwithstanding KRS 42.4588(2) and (4) and to the extent that a project has not received, or been authorized by the Governor's Office for Local Development to receive, funding prior to the effective date of this Act, the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are composed of estimated receipts for fiscal year 2006-2007 and fiscal year 2007-2008 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Governor's Office for Local Development.

(2) Water and Sewer Projects: The following projects that are related to water and sewer shall be administered by the Kentucky Infrastructure Authority.

1. GENERAL GOVERNMENT

a.	*Budget Unit Governor's Office for Local Development*	*2006-07*	*2007-08*
Bell County			
001.	*Bell County Board of Education - Bell County High School - Agriculture Advancement Council for a No-Till Seeder*		
	Restricted Funds	*5,000*	*-0-*
002.	*Bell County Board of Education - Projects*		
	Restricted Funds	*5,000*	*10,000*
003.	*Bell County Fiscal Court - Bell County Homeless and Housing Council - Land and/or Supplies*		
	Restricted Funds	*10,000*	*10,000*
004.	*Bell County Fiscal Court - Bell County Industrial Foundation - Completion of Infrastructure*		
	Restricted Funds	*125,000*	*125,000*
005.	*Bell County Fiscal Court - Bell County Little League - Equipment and/or Field Improvements*		
	Restricted Funds	*5,000*	*5,000*
006.	*Bell County Fiscal Court - Bell County Public Library - Furnishing and Equipment*		
	Restricted Funds	*20,000*	*20,000*
007.	*Bell County Fiscal Court - Bell County Rescue Squad - Operations*		
	Restricted Funds	*10,000*	*10,000*
008.	*Bell County Fiscal Court - Bell County Senior Citizens - Operations*		
	Restricted Funds	*5,000*	*5,000*
009.	*Bell County Fiscal Court - Bell County Sheriff Department - Vehicles and/or Equipment*		
	Restricted Funds	*25,000*	*35,000*
010.	*Bell County Fiscal Court - Bell County Volunteer Fire Department - Construction of New Fire Station at Arjay*		
	Restricted Funds	*25,000*	*25,000*
011.	*Bell County Fiscal Court - County Clerk - Equipment*		

	Restricted Funds	***5,000***	***5,000***
012.	***Bell County Fiscal Court - Frakes Senior Citizens - Operations***		
	Restricted Funds	***2,500***	***2,500***
013.	***Bell County Fiscal Court - Middlesboro Little League and Tee Ball - Equipment and/or Field Improvement***		
	Restricted Funds	***5,000***	***5,000***
014.	***Bell County Fiscal Court - Projects and/or Equipment***		
	Restricted Funds	***325,000***	***390,000***
015.	***Bell County Fiscal Court - Red Bird Senior Citizens - Operations***		
	Restricted Funds	***2,500***	***2,500***
016.	***Bell County Fiscal Court - The Lighthouse Mission - Operations and/or Equipment***		
	Restricted Funds	***20,000***	***20,000***
017.	***Bell County Fiscal Court - Two New Ambulances***		
	Restricted Funds	***80,000***	***80,000***
018.	***City of Middlesboro - Fire Department - Turn Out Gear***		
	Restricted Funds	***25,000***	***-0-***
019.	***City of Middlesboro - Police Department and/or Equipment***		
	Restricted Funds	***25,000***	***-0-***
020.	***City of Middlesboro - Project and/or Equipment***		
	Restricted Funds	***25,000***	***25,000***
021.	***City of Pineville - Fire Department - Equipment***		
	Restricted Funds	***-0-***	***10,000***
022.	***City of Pineville - Projects and/or Equipment***		
	Restricted Funds	***30,000***	***-0-***
023.	***Middlesboro Board of Education - Projects***		
	Restricted Funds	***20,000***	***-0-***
024.	***Pineville Board of Education - Projects***		
	Restricted Funds	***20,000***	***-0-***
025.	***Bell County Board of Education - K-6 Little League Football Equipment***		
	Restricted Funds	***5,000***	***-0-***
026.	***Pineville Independent School Board - Pineville City Schools - K-6 Little League Football Equipment***		
	Restricted Funds	***5,000***	***-0-***
027.	***Middlesboro Independent School Board - Middlesboro City Schools - K-6 Little League Football Equipment***		
	Restricted Funds	***5,000***	***-0-***
028.	***Bell County Fiscal Court - Cemetery Fund - Operations and/or Equipment***		
	Restricted Funds	***-0-***	***10,000***
029.	***Bell County Fiscal Court - PVA - Equipment***		
	Restricted Funds	***5,000***	***5,000***

030.	*Bell County Fiscal Court - Dewey Guy Post - Expense for Conducting Military Funerals*		
	Restricted Funds	*5,000*	*-0-*
031.	*Bell County Health Department - Equipment and/or Supplies*		
	Restricted Funds	*5,000*	*5,000*
032.	*Bell County Fiscal Court - The KY Homeplace - Equipment and/or Supplies*		
	Restricted Funds	*5,000*	*5,000*
033.	*Bell County Fiscal Court - Frakes Volunteer Fire Department - Operations and/or Equipment*		
	Restricted Funds	*5,000*	*5,000*
034.	*Bell County Fiscal Court - Airport Improvements*		
	Restricted Funds	*-0-*	*10,000*
035.	*Bell County Fiscal Court - Bell County Veterans Park - Construction of Restrooms*		
	Restricted Funds	*5,000*	*-0-*
036.	*City of Pineville - Police Department - Equipment/Vehicles*		
	Restricted Funds	*-0-*	*20,000*
Boyd County			
001.	*Ashland Independent Board of Education - Facility Upgrades and Improvements*		
	Restricted Funds	*40,000*	*40,000*
002.	*Boyd County Board of Education - Facility Improvements and Upgrades - Boyd County Soccer Complex - Lights, Fencing, and Other Related Enhancements and Improvements*		
	Restricted Funds	*80,000*	*-0-*
003.	*Boyd County Fiscal Court - Fair - Building and Ground Improvements*		
	Restricted Funds	*-0-*	*10,000*
004.	*Boyd County Fiscal Court - Fannin Park - Improvements*		
	Restricted Funds	*-0-*	*10,000*
005.	*Boyd County Fiscal Court - Fraley Fields - Improvements*		
	Restricted Funds	*-0-*	*10,000*
006.	*City of Catlettsburg - Infrastructure and Other Improvements*		
	Restricted Funds	*-0-*	*26,004*
007.	*Fairview Board of Education - Facility Upgrades and Improvements*		
	Restricted Funds	*40,000*	*40,000*
Breathitt County			
001.	*Breathitt County Board of Education - Drain Tile for Landfill Between Breathitt County High School and Highway 15*		
	Restricted Funds	*-0-*	*200,000*
002.	*Breathitt County Board of Education - Purchasing, Remodeling, and Improving Property of Montessori School Currently Owned by Buckhorn Childrens Home*		

	Restricted Funds	*300,000*	*-0-*
003.	*Breathitt County Fiscal Court - Hazard Community College/Lees College Campus - Breathitt County Intergenerational Center*		
	Restricted Funds	*-0-*	*500,000*
004.	*Breathitt County Water District - Canoe Water Line*		
	Restricted Funds	*241,050*	*-0-*
005.	*Buckhorn Water District - Water Line Extensions on Bowlings Creek Road and Bushes Branch Road*		
	Restricted Funds	*241,050*	*-0-*
006.	*City of Jackson - Doughitt Park*		
	Restricted Funds	*50,000*	*-0-*
007.	*Breathitt County Fiscal Court - Breathitt County Court Clerk's Office - Equipment*		
	Restricted Funds	*25,000*	*-0-*
008.	*Jackson Independent Board of Education - Jackson City School System - Science Lab, PE Lockers, and Other School Equipment*		
	Restricted Funds	*100,000*	*-0-*
009.	*UK Center for Rural Health - KY Homeplace/SKYCAP*		
	Restricted Funds	*15,000*	*-0-*
010.	*Breathitt County Fiscal Court - Hazard Community College/Lees College Campus - Family Life Skills Center*		
	Restricted Funds	*-0-*	*26,500*
Butler County			
001.	*Butler County Fiscal Court - Audio Speaker System for Butler County Courthouse*		
	Restricted Funds	*4,000*	*-0-*
002.	*Butler County Fiscal Court - Boys and Girls Youth Program*		
	Restricted Funds	*3,500*	*-0-*
Carter County			
001.	*Carter County Board of Education - East Carter High School - Tennis Courts*		
	Restricted Funds	*-0-*	*40,000*
002.	*Carter County Board of Education - West Carter Middle School - Soccer Field Lights*		
	Restricted Funds	*15,000*	*-0-*
003.	*Carter County Fiscal Court - Carter City Fire Department - Equipment and Operations*		
	Restricted Funds	*10,000*	*10,000*
004.	*Carter County Fiscal Court - Carter County Recreation - Park Development*		
	Restricted Funds	*20,000*	*10,000*
005.	*Carter County Fiscal Court - First Response Unit - EMS*		
	Restricted Funds	*50,000*	*-0-*
006.	*Carter County Fiscal Court - Grahn Community Center - Operating Costs*		
	Restricted Funds	*3,000*	*3,000*

007.	*Carter County Fiscal Court - Grahn Fire Department - Equipment and Operations*		
	Restricted Funds	*10,000*	*10,000*
008.	*Carter County Fiscal Court - Grayson Fire Department - Equipment and Operations*		
	Restricted Funds	*10,000*	*10,000*
009.	*Carter County Fiscal Court - Hitchins Fire Department - Equipment and Operations*		
	Restricted Funds	*10,000*	*10,000*
010.	*Carter County Fiscal Court - Olive Hill Fire Department - Equipment and Operations*		
	Restricted Funds	*25,000*	*25,000*
011.	*Carter County Fiscal Court - Repair Affair Grayson - Equipment and Supplies*		
	Restricted Funds	*3,000*	*3,000*
012.	*Carter County Fiscal Court - Search and Rescue - Operations and Equipment*		
	Restricted Funds	*2,500*	*2,500*
013.	*Carter County Fiscal Court - Veterans Association - Main Street Park Project*		
	Restricted Funds	*30,000*	*30,000*
014.	*Carter County Fiscal Court - Webbville Fire Department - Operations and Equipment*		
	Restricted Funds	*3,000*	*3,000*
015.	*City of Grayson - Downtown Beautification - Sidewalk and Lighting - Improvements*		
	Restricted Funds	*15,000*	*15,000*
016.	*City of Olive Hill - Downtown Beautification - Brown Park - Sidewalk and Lighting - Improvements*		
	Restricted Funds	*25,000*	*25,000*
017.	*City of Olive Hill - Olive Hill Historical Society - High School Restoration Project*		
	Restricted Funds	*25,000*	*25,000*
Christian County			
001.	*Christian County Fiscal Court - New Salvation Army Building*		
	Restricted Funds	*151,841*	*-0-*
Clay County			
001.	*City of Manchester - Street Scape*		
	Restricted Funds	*280,000*	*280,000*
002.	*Clay County Fiscal Court - B-School - Renovations and Park*		
	Restricted Funds	*40,000*	*-0-*
003.	*Clay County Fiscal Court - Community Wellness Program - Laurel Creek*		
	Restricted Funds	*12,000*	*-0-*
004.	*Clay County Board of Education - Renovation of Pinhook School*		
	Restricted Funds	*15,000*	*-0-*
Crittenden County			

001. Crittenden County Fiscal Court - Clement Mineral Museum - Renovation and Repair		
Restricted Funds	*20,000*	*-0-*
002. Crittenden County Fiscal Court - Crittenden County Animal Shelter - Construction		
Restricted Funds	*40,000*	*-0-*
003. Crittenden County Fiscal Court - Crittenden County Emergency Services Building - Property Purchase and Construction		
Restricted Funds	*375,000*	*-0-*
004. Crittenden County Fiscal Court - Senior Citizens Center - Expansion		
Restricted Funds	*65,000*	*-0-*
Daviess County		
001. Daviess County Fiscal Court - Broadband Initiatives		
Restricted Funds	*100,000*	*-0-*
002. Daviess County Fiscal Court - Economic Development Incentives		
Restricted Funds	*50,000*	*-0-*
003. Daviess County Fiscal Court - Highway 144 Road Project		
Restricted Funds	*300,000*	*-0-*
Elliott County		
001. City of Sandy Hook - Downtown Beautification, Building Purchase, Sidewalk, Street Repairs, and other Upgrades and Improvements		
Restricted Funds	*25,000*	*25,000*
002. Elliott County Board of Education - Athletic Facility Improvements and Upgrades, Ground Improvements, Wellness Equipment, and other Related Athletic Department Enhancements		
Restricted Funds	*20,000*	*20,000*
003. Elliott County Board of Education - Building and Ground Improvements, Program, Curriculum, Enhancements, and other Upgrades		
Restricted Funds	*20,000*	*25,000*
004. Elliott County Board of Education - Elliott County Public Library - Equipment, Materials, Program Enhancements, Operations, and other Library Improvements		
Restricted Funds	*20,000*	*20,000*
005. Elliott County Board of Education - Isonville Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
Restricted Funds	*10,000*	*10,000*
006. Elliott County Board of Education - Lakeside Elementary - Facility and Ground Improvements,		

	Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	*10,000*	*10,000*
007.	*Elliott County Board of Education - Sandy Hook Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*10,000*	*10,000*
008.	*Elliott County Fiscal Court - 504 Volunteer Fire Department - Equipment, Building and Ground Improvements and Other Enhancements*		
	Restricted Funds	*10,000*	*15,000*
009.	*Elliott County Fiscal Court - Elliott County Fire and Rescue - Equipment, Building and Ground Improvements and Other Enhancements*		
	Restricted Funds	*10,000*	*15,000*
010.	*Elliott County Fiscal Court - Isonville Volunteer Fire Department - Equipment, Building and Ground Improvements and other Enhancements*		
	Restricted Funds	*10,000*	*15,000*
011.	*Elliott County Fiscal Court - Laurel Gorge Cultural and Heritage Center - Facility and Ground Improvements, Equipment, Materials, Operations, and other Upgrades*		
	Restricted Funds	*20,000*	*20,000*
012.	*Elliott County Fiscal Court - New Ambulance - Elliott County Ambulance Service*		
	Restricted Funds	*30,000*	*-0-*
Floyd County			
001.	*City of Allen - Ball Park - Improvements*		
	Restricted Funds	*20,000*	*-0-*
002.	*Floyd County Board of Education - Allen Central High School - Academic and Athletic Program/Athletic Teams - Equipment and Educational Support*		
	Restricted Funds	*-0-*	*50,000*
003.	*Floyd County Board of Education - Betsy Layne High School - Academic and Athletic Program/Athletic Teams - Equipment and Educational Support*		
	Restricted Funds	*-0-*	*50,000*
004.	*Floyd County Board of Education - Prestonsburg High School - Academic and Athletic Program/ Athletic Teams - Equipment and Educational Support*		
	Restricted Funds	*-0-*	*50,000*
005.	*Floyd County Board of Education - South Floyd High School - Academic and Athletic Program/Athletic Teams - Equipment and Educational Support*		
	Restricted Funds	*-0-*	*50,000*

006.	*Floyd County Fiscal Court - Allen Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
007.	*Floyd County Fiscal Court - Appalachian Regional Health Care - Facility Upgrades and Construction - Regional, Technology and Business Center*		
	Restricted Funds	*100,000*	*-0-*
008.	*Floyd County Fiscal Court - Auxier Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
009.	*Floyd County Fiscal Court - Betsy Layne Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
010.	*Floyd County Fiscal Court - Bookmobile - Vehicle*		
	Restricted Funds	*-0-*	*75,000*
011.	*Floyd County Fiscal Court - Comb's Airport - Runway and Safety Improvements*		
	Restricted Funds	*50,000*	*-0-*
012.	*Floyd County Fiscal Court - Coroner - Vehicle*		
	Restricted Funds	*-0-*	*30,000*
013.	*Floyd County Fiscal Court - Cow Creek Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
014.	*Floyd County Fiscal Court - David Area Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
015.	*Floyd County Fiscal Court - Disabled American Veterans Post 169 - Equipment and Improvements*		
	Restricted Funds	*6,666*	*6,666*
016.	*Floyd County Fiscal Court - Disabled American Veterans Post 18 - Equipment and Improvements*		
	Restricted Funds	*6,666*	*6,666*
017.	*Floyd County Fiscal Court - Disabled American Veterans Post 5839 - Equipment and Improvements*		
	Restricted Funds	*6,666*	*6,666*
018.	*Floyd County Fiscal Court - Drift Park - Improvements*		
	Restricted Funds	*30,000*	*70,000*
019.	*Floyd County Fiscal Court - Elkhorn Park - Educational Program*		
	Restricted Funds	*10,000*	*20,000*
020.	*Floyd County Fiscal Court - Floyd County Head Start Program - Computers and Technical Support*		
	Restricted Funds	*50,000*	*-0-*
021.	*Floyd County Fiscal Court - Garrett Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
022.	*Floyd County Fiscal Court - Jailer - Vehicle*		
	Restricted Funds	*-0-*	*30,000*
023.	*Floyd County Fiscal Court - Jenny Wiley Outdoor*		

	Theatre - Upgrades and Improvements		
	Restricted Funds	*20,000*	*-0-*
024.	*Floyd County Fiscal Court - Left Beaver Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
025.	*Floyd County Fiscal Court - LINKS - Housing and Facility Construction*		
	Restricted Funds	*25,000*	*-0-*
026.	*Floyd County Fiscal Court - Martin Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
027.	*Floyd County Fiscal Court - Middle Creek Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
028.	*Floyd County Fiscal Court - Mountain Arts Center - Equipment Upgrades/Projects*		
	Restricted Funds	*-0-*	*50,000*
029.	*Floyd County Fiscal Court - Mountain Comprehensive Care - Lane House - Alcohol and Drug Abuse Education*		
	Restricted Funds	*25,000*	*-0-*
030.	*Floyd County Fiscal Court - Mountain Top Recreational - Construction*		
	Restricted Funds	*-0-*	*100,000*
031.	*Floyd County Fiscal Court - Mud Creek Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
032.	*Floyd County Fiscal Court - Prestonsburg Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
033.	*Floyd County Fiscal Court - Senior Citizens Center - Operating*		
	Restricted Funds	*70,000*	*70,000*
034.	*Floyd County Fiscal Court - Sheriff's Department - Vehicle*		
	Restricted Funds	*-0-*	*30,000*
035.	*Floyd County Fiscal Court - Southeast Floyd Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
036.	*Floyd County Fiscal Court - Toler Creek Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
037.	*Floyd County Fiscal Court - Vehicle for Drug Enforcement*		
	Restricted Funds	*-0-*	*30,000*
038.	*Floyd County Fiscal Court - Wayland Area Fire Department - Equipment/Operations*		
	Restricted Funds	*2,600*	*2,600*
039.	*Floyd County Fiscal Court - Wayland Historical*		

	Society - Land Purchase - East Kentucky Hall of Fame		
	Restricted Funds	100,000	-0-
040.	Floyd County Fiscal Court - Wheelwright Fire Department - Equipment/Operations		
	Restricted Funds	2,600	2,600
041.	Floyd County Fiscal Court - Hope in the Mountains - Drug Rehabilitation		
	Restricted Funds	25,000	10,000
042.	Floyd County Fiscal Court - Maytown Fire Department - Equipment/Operations		
	Restricted Funds	2,600	2,600
043.	KCTCS - Big Sandy Community and Technical College - Scholarship Fund for Students and Textbooks		
	Restricted Funds	-0-	40,000
044.	KCTCS - Prestonsburg Community College - Kentucky Coal Academy Program		
	Restricted Funds	125,000	125,000
045.	Floyd County Fiscal Court - East Kentucky Science Center		
	Restricted Funds	-0-	50,000
046.	Floyd County Fiscal Court - American Legion Post 283 - Martin		
	Restricted Funds	-0-	3,000
Greenup County			
001.	City of Bellefonte - Storm/Sanitary Sewer/ Runoff Remediation		
	Restricted Funds	20,000	-0-
002.	City of Flatwoods - Babe Ruth League - Equipment		
	Restricted Funds	1,000	-0-
003.	City of Flatwoods - Espy Lane Project - Upgrade Espy Lane Pump Station and Lines		
	Restricted Funds	20,000	-0-
004.	City of Flatwoods - Senior/Community Center - Equipment		
	Restricted Funds	1,000	-0-
005.	City of Greenup - Bathrooms in Greenup Park - Improvements		
	Restricted Funds	-0-	15,000
006.	City of Raceland - Park Improvements, Community/ Senior Center, Technology Center, Water and Sewer Improvements		
	Restricted Funds	20,000	-0-
007.	City of Russell - (SX21089014) Manhole Rehab Project		
	Restricted Funds	7,000	-0-
008.	City of Russell - Sidewalks on Seaton Drive (to be used for local match)		
	Restricted Funds	13,000	-0-
009.	City of South Shore - Quilt Festival Promotion		

	and Marketing Materials and Equipment		
	Restricted Funds	*1,000*	*-0-*
010.	*City of South Shore - Resurface Tennis Courts and Basketball Courts - Renovate Park and Bathrooms*		
	Restricted Funds	*20,000*	*-0-*
011.	*City of Worthington - (SX21089004) Sulfur Dioxide Drive - Drain for Sewer Treatment Plant*		
	Restricted Funds	*2,000*	*-0-*
012.	*City of Worthington - Parks, Sidewalk, and Water/ Sewer Improvements*		
	Restricted Funds	*18,000*	*-0-*
013.	*City of Wurtland - Walking/Running Track at Wurtland Elementary and Wurtland Middle School and Chinn Street Lift Station Rehab*		
	Restricted Funds	*20,000*	*-0-*
014.	*Greenup County Fiscal Court - U.S. 23 - Fullerton/ South Portsmouth Country Music Highway*		
	Restricted Funds	*19,000*	*-0-*
015.	*Greenup County Board of Education - Argillite Elementary School - Interactive White Boards, LCD Projector, and Stand*		
	Restricted Funds	*3,000*	*-0-*
016.	*Greenup County Board of Education - Greenup County Area Technology Center - Interactive White Boards and Projectors*		
	Restricted Funds	*3,000*	*-0-*
017.	*Greenup County Board of Education - Greenup County High School - Software, Printed Material, and Equipment for Remediation in Reading and Math*		
	Restricted Funds	*3,000*	*-0-*
018.	*Greenup County Board of Education - Greysbranch Elementary School - Interactive White Boards for Every Grade Level*		
	Restricted Funds	*3,000*	*-0-*
019.	*Greenup County Board of Education - McKell Elementary School - Audio Equipment for Stage/ Gym for Arts and Humanities*		
	Restricted Funds	*3,000*	*-0-*
020.	*Greenup County Board of Education - McKell Middle School - Calculators, Math Manipulators, and Hardware*		
	Restricted Funds	*3,000*	*-0-*
021.	*Greenup County Board of Education - Wurtland Elementary School - Walking/Running Track*		
	Restricted Funds	*3,000*	*-0-*
022.	*Greenup County Fiscal Court - Engineering Study of Poplar Highlands Sewer Upgrades*		
	Restricted Funds	*-0-*	*25,000*
023.	*Greenup County Fiscal Court - North Fork Radio Tower Extension*		

	Restricted Funds	*8,000*	*-0-*
024.	*Greenup County Fiscal Court - Greenup County Humane Society*		
	Restricted Funds	*1,000*	*-0-*
025.	*Greenup County Fiscal Court - Greenup Senior Citizens Center - Improvements and Operating Expenses*		
	Restricted Funds	*10,000*	*-0-*
026.	*Greenup County Fiscal Court - Guardrail for Route 7*		
	Restricted Funds	*20,000*	*-0-*
027.	*Greenup County Fiscal Court - Old Fashioned Days Promotion and Marketing Materials and Equipment*		
	Restricted Funds	*1,000*	*-0-*
028.	*Greenup County Fiscal Court - South Shore - Meals on Wheels*		
	Restricted Funds	*1,000*	*-0-*
029.	*Greenup County Fiscal Court - Welcome Area US 23 Near Grant Bridge at Fullerton/South Portsmouth - Construction*		
	Restricted Funds	*-0-*	*35,000*
030.	*Russell Independent Board of Education - Russell - McDowell Intermediate School - Physical Fitness Equipment/Mats and Hand Holds*		
	Restricted Funds	*3,000*	*-0-*
031.	*Russell Independent Board of Education - Russell Area Technology Center - Instructor Monitoring Software*		
	Restricted Funds	*3,000*	*-0-*
032.	*Russell Independent Board of Education - Russell High School - Graphic Calculators, Digital Cameras, Data Projector, and Digital Micro Pipets*		
	Restricted Funds	*3,000*	*-0-*
033.	*Russell Independent Board of Education - Russell Middle School - Audiovisual Equipment*		
	Restricted Funds	*3,000*	*-0-*
034.	*Russell Independent Board of Education - Russell Primary School - Poster Machine, Cold Laminator, and Risograph*		
	Restricted Funds	*3,000*	*-0-*
035.	*City of Greenup - Pump Station (Route 1) and Water System Improvements*		
	Restricted Funds	*71,000*	*-0-*
036.	*Greenup County Fiscal Court - Greenup County Park and Fairgrounds Improvements*		
	Restricted Funds	*10,000*	*-0-*
037.	*Greenup County Fiscal Court - Worthington Meals on Wheels*		
	Restricted Funds	*1,000*	*-0-*
038.	*Greenup County Fiscal Court - Russell/Raceland/ Flatwoods - Meals on Wheels*		
	Restricted Funds	*1,000*	*-0-*

039.	Greenup County Fiscal Court - Greenup Riverfront Improvements		
	Restricted Funds	15,000	-0-
040.	City of Raceland - Lost Canyon and Caroline Road - Sewer Extension - SX 21089018		
	Restricted Funds	48,000	-0-
Hancock County			
001.	Hancock County Fiscal Court Community Development		
	Restricted Funds	235,000	-0-
002.	Hancock County Fiscal Court - Highway 657 (4th Street) - Sewer Line Extension		
	Restricted Funds	-0-	75,000
003.	Hancock County Fiscal Court - Repair Affair		
	Restricted Funds	15,000	-0-
Harlan County			
001.	City of Benham - Operations, Projects, and Equipment		
	Restricted Funds	20,000	20,000
002.	City of Benham - Water Tank		
	Restricted Funds	250,000	-0-
003.	City of Cumberland - Projects and Equipment		
	Restricted Funds	20,000	20,000
004.	City of Cumberland - Tri-City Heritage Development Corporation Operations		
	Restricted Funds	-0-	15,000
005.	City of Cumberland - Water Line Extension - Cumberland to Letcher County Line		
	Restricted Funds	500,000	-0-
006.	City of Evarts - Land Acquisition and Building for Fire Department - Construction		
	Restricted Funds	25,000	-0-
007.	City of Evarts - Land Acquisition and Building for RV Park - Construction		
	Restricted Funds	-0-	50,000
008.	City of Evarts - Projects and/or Equipment		
	Restricted Funds	20,000	20,000
009.	City of Evarts - Safety Equipment for ATV Park		
	Restricted Funds	90,000	-0-
010.	City of Harlan - Harlan City Fire Department - Operations and Equipment		
	Restricted Funds	7,500	7,500
011.	City of Harlan - Harlan Revitalization		
	Restricted Funds	50,000	25,000
012.	City of Loyall - Projects and Equipment		
	Restricted Funds	20,000	20,000
013.	City of Lynch - Projects and Equipment		
	Restricted Funds	20,000	20,000
014.	City of Lynch - Sewer Line Replacement Project		
	Restricted Funds	-0-	70,000

015. City of Lynch - Water Plant Rehabilitation		
Restricted Funds	*100,000*	*-0-*
016. City of Wallins - Projects and Equipment		
Restricted Funds	*20,000*	*20,000*
017. Green Hills Water District - Water System Improvements and Extensions		
Restricted Funds	*200,000*	*125,000*
018. Green Hills Water District - Equipment and Water Line Extension		
Restricted Funds	*75,000*	*-0-*
019. Harlan County Fiscal Court - Benham Fire Department - Operations and Equipment		
Restricted Funds	*7,500*	*7,500*
020. Harlan County Fiscal Court - Black Mountain Utilities - Water Line Extension		
Restricted Funds	*300,000*	*700,000*
021. Harlan County Fiscal Court - Bledsoe Volunteer Fire Department - Operations and Equipment		
Restricted Funds	*7,500*	*7,500*
022. Harlan County Fiscal Court - Camp Blanton - Renovation		
Restricted Funds	*84,000*	*-0-*
023. Harlan County Fiscal Court - Cawood Ledford Boys and Girls Club - Operations and Equipment		
Restricted Funds	*25,000*	*25,000*
024. Harlan County Fiscal Court - Cawood Water District Water Line - Expansion to Smith Area		
Restricted Funds	*400,000*	*600,000*
025. Harlan County Fiscal Court - Cloverfork Rescue Squad - Operations and Equipment		
Restricted Funds	*-0-*	*10,000*
026. Harlan County Fiscal Court - Cloverfork Volunteer Fire Department - Operations and Equipment		
Restricted Funds	*7,500*	*7,500*
027. Harlan County Fiscal Court - Coldiron Volunteer Fire Department - Operations and Equipment		
Restricted Funds	*7,500*	*7,500*
028. Harlan County Fiscal Court - Coxton Park - Renovation and Improvements		
Restricted Funds	*10,000*	*-0-*
029. Harlan County Fiscal Court - Cumberland Fire Department - Operations and Equipment		
Restricted Funds	*7,500*	*7,500*
030. Harlan County Fiscal Court - Detention Center - Bond Department - Principal		
Restricted Funds	*250,000*	*250,000*
031. Harlan County Fiscal Court - Evarts Depot - Restoration		
Restricted Funds	*-0-*	*57,000*
032. Harlan County Fiscal Court - Evarts Fire		

	Department - Operations and Equipment		
	Restricted Funds	*7,500*	*7,500*
033.	*Harlan County Fiscal Court - Four-Wheeler Park for Promotional Costs and Ancillary*		
	Restricted Funds	*-0-*	*100,000*
034.	*Harlan County Fiscal Court - Green Hills Community Center and Park - Improvements*		
	Restricted Funds	*20,000*	*-0-*
035.	*Harlan County Fiscal Court - Harlan Rescue Squad - Operations and Equipment*		
	Restricted Funds	*-0-*	*10,000*
036.	*Harlan County Fiscal Court - Harlan County Committee on Aging, Inc. - Renovation/Equipment*		
	Restricted Funds	*-0-*	*125,000*
037.	*Harlan County Fiscal Court - Harlan County Road Department - Equipment*		
	Restricted Funds	*-0-*	*50,000*
038.	*Harlan County Fiscal Court - Harlan Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
039.	*Harlan County Fiscal Court - Harlan Little League - Operations and Maintenance*		
	Restricted Funds	*5,000*	*10,000*
040.	*Harlan County Fiscal Court - Harlan Shriners' Park - Improvements*		
	Restricted Funds	*-0-*	*10,000*
041.	*Harlan County Fiscal Court - Hope Drug Center - Operations and Equipment*		
	Restricted Funds	*220,000*	*29,000*
042.	*Harlan County Fiscal Court - Lower Cloverfork Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
043.	*Harlan County Fiscal Court - Loyall Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
044.	*Harlan County Fiscal Court - Lynch Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
045.	*Harlan County Fiscal Court - Martins Fork Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
046.	*Harlan County Fiscal Court - Mountain Comprehensive Health Corporation - Improvements*		
	Restricted Funds	*250,000*	*-0-*
047.	*Harlan County Fiscal Court - Pathfork Park - Improvements*		
	Restricted Funds	*10,000*	*-0-*
048.	*Harlan County Fiscal Court - Putney Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*

049.	*Harlan County Fiscal Court - Sheriff's Department - Cops in School*		
	Restricted Funds	*25,000*	*25,000*
050.	*Harlan County Fiscal Court - Smith Park - Improvements*		
	Restricted Funds	*-0-*	*10,000*
051.	*Harlan County Fiscal Court - Southeast Education Foundation - Benham Inn, Portal 31, Coal Mine Museum - Pay off Debt*		
	Restricted Funds	*325,000*	*-0-*
052.	*Harlan County Fiscal Court - Southeast Kentucky Rehabilitation Industry - Building and Roof - Repair*		
	Restricted Funds	*250,000*	*-0-*
053.	*Harlan County Fiscal Court - Sunshine Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
054.	*Harlan County Fiscal Court - Tri-City Little League - Operations and Equipment*		
	Restricted Funds	*-0-*	*15,000*
055.	*Harlan County Fiscal Court - Upper Cloverfork Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
056.	*Harlan County Fiscal Court - Veterans Honor Guard*		
	Restricted Funds	*-0-*	*15,000*
057.	*Harlan County Fiscal Court - Wallins Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
058.	*Harlan County Fiscal Court - Yocum Creek Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*7,500*	*7,500*
059.	*KCTCS - Southeast Community College - Kentucky Coal Academy Program*		
	Restricted Funds	*125,000*	*125,000*
060.	*Kentucky Fish and Wildlife - Two ATV Safety Vehicles and Operations for Harlan County ATV Trails*		
	Restricted Funds	*75,000*	*75,000*
061.	*City of Lynch - Splash Pad Project*		
	Restricted Funds	*-0-*	*60,000*
Henderson County			
001.	*City of Corydon - Demolish and Removal of Buildings - Health and Safety Reasons*		
	Restricted Funds	*25,000*	*-0-*
002.	*City of Robards - Infrastructure Needs*		
	Restricted Funds	*20,000*	*-0-*
003.	*Henderson County Fiscal Court - Baskett Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*
004.	*Henderson County Fiscal Court - Cairo Volunteer Fire Department - Firefighting Equipment*		
	Restricted Funds	*10,000*	*-0-*

005. Henderson County Fiscal Court - Corydon Civil Defense Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
006. Henderson County Fiscal Court - Hebbardsville Area Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
007. Henderson County Fiscal Court - Henderson City - County Rescue Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
008. Henderson County Fiscal Court - Henderson County Fairgrounds - Concrete Areas Around Buildings/Bathrooms		
Restricted Funds	*20,000*	*-0-*
009. Henderson County Fiscal Court - Henderson County Fairgrounds - Infrastructure for Walking Track and Paving		
Restricted Funds	*55,000*	*-0-*
010. Henderson County Fiscal Court - Henderson County Fairgrounds - Park Equipment and Improvements		
Restricted Funds	*45,000*	*-0-*
011. Henderson County Fiscal Court - Niagara Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
012. Henderson County Fiscal Court - Paving of Newly Constructed Connector Road at Riverport		
Restricted Funds	*40,000*	*-0-*
013. Henderson County Fiscal Court - Poole Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
014. Henderson County Fiscal Court - Public Library - Repair and Renovation		
Restricted Funds	*250,000*	*-0-*
015. Henderson County Fiscal Court - Reed Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
016. Henderson County Fiscal Court - Robards Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
017. Henderson County Fiscal Court - Smith Mills Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
018. Henderson County Fiscal Court - Spottsville Volunteer Fire Department - Firefighting Equipment		
Restricted Funds	*10,000*	*-0-*
019. Henderson County Fiscal Court - Star Industrial Park - Site Adjacent to Columbia Sportswear - Grading and Site Work for Entrance		
Restricted Funds	*45,000*	*-0-*

020.	Henderson County Fiscal Court - Star Industrial Park - Entrance and Site Work - Clearing of Trees and Reseeding		
	Restricted Funds	40,000	-0-
021.	Henderson County Fiscal Court - Zion Volunteer Fire Department - Firefighting Equipment		
	Restricted Funds	10,000	-0-
022.	Henderson County Water District - Cheatham Road/William Keene Road Extension		
	Restricted Funds	26,000	-0-
023.	Henderson County Water District - Henderson and West Daviess Interconnection		
	Restricted Funds	75,000	-0-
024.	Henderson County Water District - Henderson County Water - Old US 60 Main Replacement		
	Restricted Funds	125,000	-0-
025.	Henderson County Water District - J. Gibson Hugh Sights - Rock Springs Roads Water Line Extension		
	Restricted Funds	136,000	-0-
Hopkins County			
001.	City of Dawson Springs - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
002.	City of Earlington - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
003.	City of Hanson - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
004.	City of Madisonville - Hopkins County Public Library - Renovation Project		
	Restricted Funds	100,000	-0-
005.	City of Madisonville - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
006.	Dawson Springs - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
007.	City of Madisonville Community College - Technology Upgrades and Workforce Development Programs		
	Restricted Funds	200,000	-0-
008.	City of Mortons Gap - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
009.	City of Nebo - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
010.	City of Nortonville - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
011.	City of St. Charles - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
012.	City of White Plains - Warning Sirens - Equipment		
	Restricted Funds	14,000	-0-
013.	Hopkins County Board of Education - School Resource Officer		

	Restricted Funds	*70,000*	*-0-*
014.	*Hopkins County Fiscal Court - Anton Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
015.	*Hopkins County Fiscal Court - Area Two Dive Search, Rescue, and Recovery Team - Equipment and Upgrades*		
	Restricted Funds	*90,000*	*-0-*
016.	*Hopkins County Fiscal Court - Center for Cultural and Professional Development - Construction and Maintenance*		
	Restricted Funds	*40,000*	*-0-*
017.	*Hopkins County Fiscal Court - Charleston Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
018.	*Hopkins County Fiscal Court - Dawson Springs Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
019.	*Hopkins County Fiscal Court - Earlington Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
020.	*Hopkins County Fiscal Court - Economic Development/Land Acquisition and Infrastructure*		
	Restricted Funds	*394,450*	*-0-*
021.	*Hopkins County Fiscal Court - Grapevine Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
022.	*Hopkins County Fiscal Court - Hanson Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
023.	*Hopkins County Fiscal Court - Hopkins County Emergency Management (EMA) - Equipment Upgrades*		
	Restricted Funds	*50,000*	*-0-*
024.	*Hopkins County Fiscal Court - Hopkins County Public Works Department - Equipment and Vehicle Upgrades*		
	Restricted Funds	*200,000*	*-0-*
025.	*Hopkins County Fiscal Court - Humane Society - Equipment and Upgrades*		
	Restricted Funds	*50,000*	*-0-*
026.	*Hopkins County Fiscal Court - Manitou Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
027.	*Hopkins County Fiscal Court - Mortons Gap Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
028.	*Hopkins County Fiscal Court - Nebo Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*

029.	*Hopkins County Fiscal Court - Nortonville*		
	Volunteer Fire Department - Equipment		
	Restricted Funds	*10,000*	*-0-*
030.	*Hopkins County Fiscal Court - Richland*		
	Volunteer Fire Department - Equipment		
	Restricted Funds	*10,000*	*-0-*
031.	*Hopkins County Fiscal Court - Rosenwalk -*		
	Smith Multicultural Center - Maintenance and Repairs		
	Restricted Funds	*100,000*	*-0-*
032.	*Hopkins County Fiscal Court - South Hopkins*		
	Volunteer Fire Department - Equipment		
	Restricted Funds	*10,000*	*-0-*
033.	*Hopkins County Fiscal Court - St. Charles*		
	Volunteer Fire Department - Equipment		
	Restricted Funds	*10,000*	*-0-*
034.	*Hopkins County Fiscal Court - White Plains*		
	Volunteer Fire Department - Equipment		
	Restricted Funds	*10,000*	*-0-*
035.	*KCTCS - Madisonville Community College -*		
	Kentucky Coal Academy Program		
	Restricted Funds	*125,000*	*125,000*
Jackson County			
001.	*Jackson County Fiscal Court - Gray Hawk Fire*		
	Department - Equipment		
	Restricted Funds	*10,000*	*5,000*
002.	*Jackson County Fiscal Court - Jackson County*		
	Library Board		
	Restricted Funds	*20,000*	*10,000*
003.	*Jackson County Fiscal Court - Maintenance*		
	Vehicles - Improvements		
	Restricted Funds	*20,000*	*10,000*
004.	*Jackson County Fiscal Court - McKee Fire*		
	Department - Equipment		
	Restricted Funds	*10,000*	*5,000*
005.	*Jackson County Fiscal Court - Pond Creek Fire*		
	Department - Equipment		
	Restricted Funds	*10,000*	*5,000*
006.	*Jackson County Fiscal Court - Sand Gap Fire*		
	Department - Equipment		
	Restricted Funds	*10,000*	*5,000*
007.	*Jackson County Fiscal Court - Sheriff's Department -*		
	Vehicle and Equipment		
	Restricted Funds	*20,000*	*25,000*
Johnson County			
001.	*Johnson County Board of Education - Public*		
	Schools -Youth Activities Facility - Construction		
	Restricted Funds	*50,000*	*50,000*
002.	*Johnson County Fiscal Court - Courthouse -*		
	Debt Reduction		

	Restricted Funds	*250,000*	*250,000*
003.	*Johnson County Fiscal Court - Courthouse - Maintenance and Repair*		
	Restricted Funds	*25,000*	*-0-*
004.	*Johnson County Fiscal Court - Senior Citizens Center - Improvements*		
	Restricted Funds	*25,000*	*25,000*
005.	*Johnson County Fiscal Court - Volunteer Fire Departments - Equipment and Operations*		
	Restricted Funds	*35,000*	*35,000*
006.	*Paintsville Independent Board of Education - City Schools - Youth Activities Facility - Construction*		
	Restricted Funds	*50,000*	*50,000*
Knott County			
001.	*Knott County Fiscal Court - Adult Wellness Complex - Bond Payment*		
	Restricted Funds	*1,000,000*	*1,000,000*
002.	*Knott County Fiscal Court - Amphitheater - Construction*		
	Restricted Funds	*50,000*	*200,000*
003.	*Knott County Fiscal Court - ATV Training Center and Trails - Develop and Construct*		
	Restricted Funds	*25,000*	*50,000*
004.	*Knott County Fiscal Court - Ball Creek Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
005.	*Knott County Fiscal Court - Ball Creek Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
006.	*Knott County Fiscal Court - Ball Creek and Beaver Creek Water Project - Fire Hydrants*		
	Restricted Funds	*110,000*	*-0-*
007.	*Knott County Fiscal Court - Beaver Creek Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
008.	*Knott County Fiscal Court - Carr Creek - Water Treatment Plant*		
	Restricted Funds	*500,000*	*500,000*
009.	*Knott County Fiscal Court - Carr Creek Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
010.	*Knott County Fiscal Court - Kentucky School of Craft*		
	Restricted Funds	*250,000*	*250,000*
011.	*Knott County Fiscal Court - County Clerk's Office - Operation, Maintenance, and Equipment*		
	Restricted Funds	*35,000*	*35,000*
012.	*Knott County Fiscal Court - Dry Creek Park - Operation, Maintenance, and Improvements*		

	Restricted Funds	*5,000*	*5,000*
013.	*Knott County Fiscal Court - Fisty Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
014.	*Knott County Fiscal Court - Hindman Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
015.	*Knott County Fiscal Court - Hindman Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
016.	*Knott County Fiscal Court - Hindman Sidewalk Pedestrian - Bridge Project*		
	Restricted Funds	*100,000*	*-0-*
017.	*Knott County Fiscal Court - Jamestown Village and Highway 81 Water Line - WRIS Project No. WX21119225*		
	Restricted Funds	*300,000*	*-0-*
018.	*Knott County Fiscal Court - Jones Fork Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
019.	*Knott County Fiscal Court - Jones Fork Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
020.	*Knott County Fiscal Court - Kite Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
021.	*Knott County Fiscal Court - Kite/Topmost Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
022.	*Knott County Fiscal Court - Knott County Courthouse - Renovation*		
	Restricted Funds	*200,000*	*200,000*
023.	*Knott County Fiscal Court - Knott County Emergency Rescue Squad - Equipment*		
	Restricted Funds	*25,000*	*25,000*
024.	*Knott County Fiscal Court - Knott County Football Field - Fence Around the Field*		
	Restricted Funds	*8,300*	*-0-*
025.	*Knott County Fiscal Court - Knott County Football Field - Rubberizing Track Service*		
	Restricted Funds	*45,000*	*-0-*
026.	*Knott County Fiscal Court - Knott County Football Field - Turf Solution*		
	Restricted Funds	*10,438*	*-0-*
027.	*Knott County Fiscal Court - Knott County Sheriff's Office - Safety Equipment, Operating, Maintenance, and Vehicle*		
	Restricted Funds	*100,000*	*-0-*
028.	*Knott County Fiscal Court - Knott County Youth*		

	Foundation - Operating and Equipment		
	Restricted Funds	*20,000*	*75,000*
029.	*Knott County Fiscal Court - Lotts Creek Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
030.	*Knott County Fiscal Court - Lotts Creek School - Athletic Field Lighting*		
	Restricted Funds	*50,000*	*25,000*
031.	*Knott County Fiscal Court - Various Water Line Extensions*		
	Restricted Funds	*250,000*	*250,000*
032.	*Knott County Fiscal Court - Martin Branch - Water Project*		
	Restricted Funds	*250,000*	*-0-*
033.	*Knott County Fiscal Court - Rte. 80 Montgomery to Soft Shell Exit - Water Line Extensions*		
	Restricted Funds	*-0-*	*1,000,000*
034.	*Knott County Fiscal Court - Mousie Community - Fifteen Fire Hydrants*		
	Restricted Funds	*33,000*	*-0-*
035.	*Knott County Fiscal Court - Pippa Passes Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
036.	*Knott County Fiscal Court - Purchase of Beckham Combs Elementary - Community Center*		
	Restricted Funds	*250,000*	*-0-*
037.	*Knott County Fiscal Court - Purchase of Caney Elementary - Community Center*		
	Restricted Funds	*250,000*	*-0-*
038.	*Knott County Fiscal Court - Purchase of Old Knott County Food Store - Community Center*		
	Restricted Funds	*100,000*	*-0-*
039.	*Knott County Fiscal Court - Purchase Property for Economic Development - Robert and Maggie Gambill Property*		
	Restricted Funds	*525,000*	*-0-*
040.	*Knott County Fiscal Court - Red Fox Fire Department - Construction*		
	Restricted Funds	*100,000*	*-0-*
041.	*Knott County Fiscal Court - Red Fox Fire Department - Purchase Property*		
	Restricted Funds	*100,000*	*-0-*
042.	*Knott County Fiscal Court - Red Fox Park - Operation, Maintenance, and Improvements*		
	Restricted Funds	*5,000*	*5,000*
043.	*Knott County Fiscal Court - School of Crafts - Ceramic Department - Construction*		
	Restricted Funds	*250,000*	*-0-*
044.	*Knott County Fiscal Court - Senior Citizens*		

	Center - Improvements		
	Restricted Funds	*75,000*	*75,000*
045.	*Knott County Fiscal Court - Tourism - ATV and Horse Trail*		
	Restricted Funds	*175,000*	*40,000*
046.	*Knott County Fiscal Court - Vicco/Sassafrass Fire Department - Equipment*		
	Restricted Funds	*25,000*	*25,000*
047.	*Knott County Fiscal Court - Fire Hydrants*		
	Restricted Funds	*-0-*	*25,000*
Knox County			
001.	*Cumberland Valley Area Development District - Artemus Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
002.	*Cumberland Valley Area Development District - Bailey Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
003.	*Cumberland Valley Area Development District - East Knox Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
004.	*Cumberland Valley Area Development District - Poplar Creek Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
005.	*Cumberland Valley Area Development District - Richland Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
006.	*Cumberland Valley Area Development District - Stinking Creek Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
007.	*Cumberland Valley Area Development District - West Knox Volunteer Fire Department - Capital Construction - Substation*		
	Restricted Funds	*-0-*	*80,000*
008.	*Cumberland Valley Area Development District - West Knox Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
009.	*Cumberland Valley Area Development District - Woodbine Subdivision Station Volunteer Fire Department - Equipment*		
	Restricted Funds	*-0-*	*30,000*
010.	*Cumberland Valley Area Development District - Woodvine Volunteer Fire Department - Capital Construction - Walker Park Substation*		
	Restricted Funds	*-0-*	*80,000*
011.	*Knox County Board of Education - Knox Central Currency Bank - Equipment*		
	Restricted Funds	*5,000*	*-0-*
012.	*Knox County Board of Education - TV 4 - Equipment*		
	Restricted Funds	*20,000*	*-0-*

013.	Knox County Fiscal Court - Knox County Attorney's Office UNITE - Equipment		
	Restricted Funds	20,000	-0-
014.	Knox County Fiscal Court - Sheriff - Equipment and Cars		
	Restricted Funds	50,000	25,000
015.	City of Barbourville - Police Department - Equipment		
	Restricted Funds	-0-	30,000
016.	City of Barbourville - Fire Department - Equipment		
	Restricted Funds	-0-	30,000
017.	Knox County Fiscal Court - Girdler Volunteer Fire Department - Payment of Capital Construction Debt		
	Restricted Funds	30,000	-0-
018.	Knox County Fiscal Court - Artemus Volunteer Fire Department - Payment of Capital Construction Debt		
	Restricted Funds	50,000	-0-
Laurel County			
001.	Laurel County Fiscal Court - Bald Rock Fire Department - Equipment		
	Restricted Funds	12,000	5,000
002.	Laurel County Fiscal Court - Bush Fire Department - Equipment		
	Restricted Funds	12,000	5,000
003.	Laurel County Fiscal Court - Campground Fire Department - Equipment		
	Restricted Funds	12,000	5,000
004.	Laurel County Fiscal Court - Crossroads Fire Department - Equipment		
	Restricted Funds	12,000	5,000
005.	Laurel County Fiscal Court - East Bernstadt Fire Department - Equipment		
	Restricted Funds	12,000	5,000
006.	Laurel County Fiscal Court - Health Department - Community Walking Track Equipment		
	Restricted Funds	20,000	-0-
007.	Laurel County Fiscal Court - Keavy Fire Department - Equipment		
	Restricted Funds	12,000	5,000
008.	Laurel County Fiscal Court - Laurel County Fire Department - Equipment		
	Restricted Funds	12,000	5,000
009.	Laurel County Fiscal Court - Laurel County Rescue Squad - Equipment		
	Restricted Funds	12,000	5,000
010.	Laurel County Fiscal Court - Library - Supplies		
	Restricted Funds	5,000	5,382
011.	Laurel County Fiscal Court - Lily Fire		

	Department - Equipment		
	Restricted Funds	*12,000*	*5,000*
012.	*Laurel County Fiscal Court - London/Laurel County Optimist Club*		
	Restricted Funds	*25,000*	*40,000*
013.	*Laurel County Fiscal Court - London Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
014.	*Laurel County Fiscal Court - McWhorter Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
015.	*Laurel County Fiscal Court - North Laurel Little League - Capital Construction*		
	Restricted Funds	*20,000*	*25,000*
016.	*Laurel County Fiscal Court - OPAC*		
	Restricted Funds	*15,000*	*15,000*
017.	*Laurel County Fiscal Court - Swiss Colony Fire Department - Equipment*		
	Restricted Funds	*12,000*	*5,000*
018.	*Laurel County Fiscal Court - Veterans Memorial - Improvements*		
	Restricted Funds	*30,000*	*-0-*
Lawrence County			
001.	*City of Louisa - Downtown Beautification, Building, Sidewalk, and Street Improvements, Infrastructure, City Park and City Pool Upgrades, and any other Enhancements*		
	Restricted Funds	*50,000*	*50,000*
002.	*City of Louisa - Lawrence County Public Library - Technology Upgrades, Construction, Library Enhancements and Improvements*		
	Restricted Funds	*75,000*	*75,000*
003.	*Lawrence County Board of Education - Blaine Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*25,000*	*-0-*
004.	*Lawrence County Board of Education - Facility Improvements and Upgrades - New Floor and Lights - Lawrence County High School Gymnasium*		
	Restricted Funds	*150,000*	*-0-*
005.	*Lawrence County Board of Education - Fallsburg Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*25,000*	*-0-*
006.	*Lawrence County Board of Education - Lawrence*		

	County Career Tech Program - Jr. Coal Academy - Program Equipment, Materials, Curriculum, and Training Enhancements - Other Improvements Related to Jr. Coal Academy		
	Restricted Funds	*100,000*	*100,000*
007.	*Lawrence County Board of Education - Louisa Upper Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*25,000*	*-0-*
008.	*Lawrence County Fiscal Court - Blaine Fire Department - Equipment and Improvements*		
	Restricted Funds	*-0-*	*10,000*
009.	*Lawrence County Fiscal Court - Blaine City Park - Various Construction, Equipment, and Ground Improvements*		
	Restricted Funds	*15,000*	*15,000*
010.	*Lawrence County Fiscal Court - Cherryville Fire Department - Equipment and Improvements*		
	Restricted Funds	*-0-*	*10,000*
011.	*Lawrence County Fiscal Court - Fallsburg Fire Department - Equipment and Improvements*		
	Restricted Funds	*-0-*	*10,000*
012.	*Lawrence County Fiscal Court - Lawrence County Community Center - Facility and Ground Improvements, Related Upgrades, and Enhancements at the Community Center*		
	Restricted Funds	*50,000*	*25,000*
013.	*Lawrence County Fiscal Court - Lawrence County Industrial Park - Various Industrial Park Improvements and Upgrades*		
	Restricted Funds	*50,000*	*75,000*
014.	*Lawrence County Fiscal Court - Louisa #1 Fire Department - Equipment and Improvements*		
	Restricted Funds	*-0-*	*10,000*
015.	*Lawrence County Fiscal Court - Louisa #2 Fire Department - Equipment and Improvements*		
	Restricted Funds	*-0-*	*10,000*
016.	*Lawrence County Fiscal Court - Lowmansville Fire Department - Equipment and Improvements*		
	Restricted Funds	*-0-*	*10,000*
017.	*Lawrence County Fiscal Court - Pleasant Ridge Park - Various Park Improvements*		
	Restricted Funds	*100,000*	*100,000*
018.	*Lawrence County Fiscal Court - Stella Moore Recreational Complex - Facility and Ground Improvements, Equipment, and other Enhancements*		
	Restricted Funds	*50,000*	*-0-*

019.	Lawrence County Fiscal Court - Webbville Fire Department - Equipment and Improvements		
	Restricted Funds	-0-	10,000
020.	Lawrence County Board of Education - Louisa Lower Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	25,000	-0-
021.	Lawrence County Board of Education - Louisa Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	25,000	-0-
Lee County			
001.	City of Beattyville - Renaissance		
	Restricted Funds	100,000	150,000
002.	Lee County Fiscal Court - Ambulance Service - Equipment		
	Restricted Funds	100,000	-0-
003.	Lee County Fiscal Court - Museum, Veterans' Wing - Improvements		
	Restricted Funds	40,000	-0-
004.	Lee County Fiscal Court - KY Mountain Mission Inc. of Southeast Kentucky		
	Restricted Funds	25,000	-0-
005.	Lee County Fiscal Court - Park - Improvements		
	Restricted Funds	50,000	-0-
006.	Lee County Fiscal Court - Senior Citizens - Equipment		
	Restricted Funds	-0-	47,000
007.	Lee County Fiscal Court - Three Forks Jail		
	Restricted Funds	100,000	100,000
008.	Lee County Fiscal Court - Volunteer Fire Department - Equipment		
	Restricted Funds	50,000	-0-
Leslie County			
001.	City of Hyden - Pedway Project		
	Restricted Funds	100,000	-0-
002.	Hyden Leslie Water District - Replace Transmission Mains in the City of Hyden and Install Fire Hydrants		
	Restricted Funds	-0-	400,000
003.	Hyden Leslie Water District - Water Line Extension - Water Plant Expansion		
	Restricted Funds	250,000	200,000
004.	Kentucky River ADD - Past Dues		
	Restricted Funds	53,000	-0-
005.	Leslie County Board of Education - Beechfork Community Center - Property Acquisition		

	Restricted Funds	320,000	-0-
006.	Leslie County Board of Education - Leslie County High School Band		
	Restricted Funds	14,000	-0-
007.	Leslie County Board of Education - Student Bus Loading Canopy		
	Restricted Funds	-0-	100,000
008.	Leslie County Board of Education - Technology Infrastructure and Student Lab Computers		
	Restricted Funds	100,000	100,000
009.	Leslie County Fiscal Court - Beechfork Community Center - Equipment, Operations, and Property Acquisition		
	Restricted Funds	180,000	-0-
010.	Leslie County Fiscal Court - Clerk's Office - Equipment		
	Restricted Funds	20,000	-0-
011.	Leslie County Fiscal Court - Community Development Center - Operations		
	Restricted Funds	74,000	80,000
012.	Leslie County Fiscal Court - Coon Creek Volunteer Fire Department		
	Restricted Funds	10,000	20,000
013.	Leslie County Fiscal Court - C.R.E.E.K. Operations		
	Restricted Funds	100,000	75,000
014.	Leslie County Fiscal Court - Cutshin Fire and Rescue Volunteer Fire Department		
	Restricted Funds	10,000	20,000
015.	Leslie County Fiscal Court - Debt Service for Refunding Bond Series 2003		
	Restricted Funds	113,650	-0-
016.	Leslie County Fiscal Court - Drug Awareness Program		
	Restricted Funds	10,000	10,000
017.	Leslie County Fiscal Court - E911 Center - New Facility - Construction		
	Restricted Funds	500,000	-0-
018.	Leslie County Fiscal Court - E911- Operations		
	Restricted Funds	200,000	200,000
019.	Leslie County Fiscal Court - Hyden Volunteer Fire Department		
	Restricted Funds	10,000	20,000
020.	Leslie County Fiscal Court - Jail Bond Debt (Principal)		
	Restricted Funds	-0-	500,000
021.	Leslie County Fiscal Court - Leslie County Food Pantry		
	Restricted Funds	10,000	-0-
022.	Leslie County Fiscal Court - Leslie County Humane Society - Operations		
	Restricted Funds	10,000	4,500
023.	Leslie County Fiscal Court - Redbird Fire Department		
	Restricted Funds	10,000	-0-
024.	Leslie County Fiscal Court - RV Park - Improvements		

	Restricted Funds	*75,000*	*-0-*
025.	*Leslie County Fiscal Court - Stinnett Fire and Rescue Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
026.	*Leslie County Fiscal Court - Stinnett Community Center - Community Development Project*		
	Restricted Funds	*150,000*	*-0-*
027.	*Leslie County Fiscal Court - Thousandsticks Fire and Rescue Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
028.	*Leslie County Fiscal Court - Transportation - County Roads - Equipment*		
	Restricted Funds	*425,000*	*611,441*
029.	*Leslie County Fiscal Court - Wooten Fire and Rescue Volunteer Fire Department*		
	Restricted Funds	*10,000*	*20,000*
030.	*Leslie County Fiscal Court - Tim Lee Carter Building, Equipment, Repairs*		
	Restricted Funds	*-0-*	*12,800*
Letcher County			
001.	*City of Jenkins - Cumberland Mountain Arts and Crafts Council Project - Construction*		
	Restricted Funds	*100,000*	*-0-*
002.	*City of Jenkins - Jenkins Water Line - Replacement*		
	Restricted Funds	*100,000*	*-0-*
003.	*City of Neon - Neon/Haymond Sewer Project*		
	Restricted Funds	*500,000*	*-0-*
004.	*City of Whitesburg - Easta Craft Conway Center - Improvements - Operations*		
	Restricted Funds	*100,000*	*100,000*
005.	*City of Whitesburg - Whitesburg Wastewater Plant*		
	Restricted Funds	*500,000*	*-0-*
006.	*Letcher County Fiscal Court - ATV Trail Development Fund - Tourism Development*		
	Restricted Funds	*100,000*	*-0-*
007.	*Letcher County Fiscal Court - Colson Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
008.	*Letcher County Fiscal Court - Cram Creek Water Extension*		
	Restricted Funds	*400,000*	*-0-*
009.	*Letcher County Fiscal Court - Cumberland River Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
010.	*Letcher County Fiscal Court - Cumberland River Water Project*		
	Restricted Funds	*-0-*	*600,000*
011.	*Letcher County Fiscal Court - Dry Fork Sewer Extension*		
	Restricted Funds	*-0-*	*400,000*
012.	*Letcher County Fiscal Court - Gordon Community Park - Improvements*		

	Restricted Funds	*35,000*	*-0-*
013.	*Letcher County Fiscal Court - Gordon Fire Department - Vehicle*		
	Restricted Funds	*100,000*	*-0-*
014.	*Letcher County Fiscal Court - Gordon Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
015.	*Letcher County Fiscal Court - Hemphill Community Center - Equipment*		
	Restricted Funds	*10,000*	*10,000*
016.	*Letcher County Fiscal Court - Highway 1181/ Highway 15 (Smoot Creek) Water Line Extension*		
	Restricted Funds	*-0-*	*300,000*
017.	*Letcher County Fiscal Court - Jenkins Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
018.	*Letcher County Fiscal Court - Kingscreek Community Center - Equipment*		
	Restricted Funds	*10,000*	*10,000*
019.	*Letcher County Fiscal Court - Kingscreek Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
020.	*Letcher County Fiscal Court - Letcher County Clerk's Office - Equipment*		
	Restricted Funds	*30,000*	*-0-*
021.	*Letcher County Fiscal Court - Letcher County Parks - Improvements*		
	Restricted Funds	*50,000*	*50,000*
022.	*Letcher County Fiscal Court - Letcher County PVA's Office - Equipment*		
	Restricted Funds	*10,000*	*-0-*
023.	*Letcher County Fiscal Court - Letcher County Recreation Park - Improvements*		
	Restricted Funds	*-0-*	*125,000*
024.	*Letcher County Fiscal Court - Letcher County Sheriff's Department - Equipment*		
	Restricted Funds	*70,000*	*-0-*
025.	*Letcher County Fiscal Court - Letcher Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
026.	*Letcher County Fiscal Court - Mayking Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
027.	*Letcher County Fiscal Court - McRoberts Community Center - Construction*		
	Restricted Funds	*115,000*	*-0-*
028.	*Letcher County Fiscal Court - Mountain Water District - Booker Branch Water Project*		
	Restricted Funds	*100,000*	*-0-*

029.	*Letcher County Fiscal Court - Neon Library - Construction*		
	Restricted Funds	*150,000*	*-0-*
030.	*Letcher County Fiscal Court - Neon Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
031.	*Letcher County Fiscal Court - Neon Volunteer Fire Department - New Regional Training Center*		
	Restricted Funds	*200,000*	*200,000*
032.	*Letcher County Fiscal Court - Partridge Community Park - Improvements*		
	Restricted Funds	*-0-*	*25,000*
033.	*Letcher County Fiscal Court - Sandlick Community Park - Improvements*		
	Restricted Funds	*-0-*	*25,000*
034.	*Letcher County Fiscal Court - Sandlick Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
035.	*Letcher County Fiscal Court - Thornton Community Park - Improvements*		
	Restricted Funds	*-0-*	*25,000*
036.	*Letcher County Fiscal Court - Whitesburg Volunteer Fire Department - Equipment*		
	Restricted Funds	*20,000*	*-0-*
037.	*Letcher County Fiscal Court - Eolia Park Improvements*		
	Restricted Funds	*25,000*	*-0-*
038.	*Letcher County Airport Board - New Airport Planning and Engineering*		
	Restricted Funds	*20,000*	*-0-*
039.	*Letcher County Board of Education - Purchase Mayking Head Start Building for LKLP Head Start*		
	Restricted Funds	*120,000*	*-0-*
040.	*Southeast Kentucky Community Technical College - Explore College Program*		
	Restricted Funds	*150,000*	*-0-*
041.	*Letcher County Board of Education - Letcher County Central Vocational School*		
	Restricted Funds	*750,000*	*-0-*
042.	*City of Jenkins - Jenkins Sewer System - Upgrades*		
	Restricted Funds	*125,000*	*-0-*
Magoffin County			
001.	*Magoffin County Fiscal Court - Administration Building*		
	Restricted Funds	*500,000*	*-0-*
002.	*Magoffin County Fiscal Court - Bloomington Fire Department - Equipment*		
	Restricted Funds	*-0-*	*20,000*
003.	*Magoffin County Fiscal Court - City Hall - Restoration*		

	Restricted Funds	100,000	100,000
004.	Magoffin County Fiscal Court - Horse Arena		
	Restricted Funds	150,000	-0-
005.	Magoffin County Fiscal Court - Magoffin County Rescue Squad - Equipment and Operations		
	Restricted Funds	35,000	-0-
006.	Magoffin County Fiscal Court - Magoffin County Sheriff's Office - Vehicle and Safety Equipment		
	Restricted Funds	15,200	60,000
007.	Magoffin County Fiscal Court - Middle Fork Fire Department - Equipment		
	Restricted Funds	-0-	20,000
008.	Magoffin County Fiscal Court - Northern Magoffin Fire Department - Equipment		
	Restricted Funds	-0-	20,000
009.	Magoffin County Fiscal Court - Ramey Memorial Park and Bridge Match		
	Restricted Funds	-0-	135,000
010.	Magoffin County Fiscal Court - Reach - Operations		
	Restricted Funds	20,000	-0-
011.	Magoffin County Fiscal Court - Royalton Fire Department - Equipment		
	Restricted Funds	-0-	20,000
012.	Magoffin County Fiscal Court - Salyersville Fire Department		
	Restricted Funds	-0-	80,000
013.	Magoffin County Fiscal Court - Salyersville Renaissance		
	Restricted Funds	-0-	50,000
014.	Magoffin County Fiscal Court - Salyersville Fire Department - Equipment		
	Restricted Funds	-0-	20,000
015.	Magoffin County Fiscal Court - Teen Center - Operations		
	Restricted Funds	-0-	20,000
016.	Magoffin County Fiscal Court - D.A.V. Chapter 15		
	Restricted Funds	25,000	-0-
017.	Magoffin County Fiscal Court - American Legion Roy Cain Post 150		
	Restricted Funds	25,000	-0-
018.	Magoffin County Fiscal Court - North Magoffin Fire Department - Mini-Pumper Truck		
	Restricted Funds	94,000	6,000
019.	Magoffin County Fiscal Court - Improvements - Pool and Canopy Construction		
	Restricted Funds	-0-	30,600
Martin County			
001.	Martin County Board of Education - Family Resource Centers - Improvements		
	Restricted Funds	60,000	-0-
002.	Martin County Board of Education - Youth		

	Activities Facility - Construction		
	Restricted Funds	*250,000*	*-0-*
003.	*Martin County Fiscal Court - Courthouse - Renovation*		
	Restricted Funds	*150,000*	*-0-*
004.	*Martin County Fiscal Court - Fire Hydrants*		
	Restricted Funds	*50,000*	*-0-*
005.	*Martin County Fiscal Court - Inez Park - Improvements*		
	Restricted Funds	*25,000*	*-0-*
006.	*Martin County Fiscal Court - Mountain Scenic Overlook - Construction*		
	Restricted Funds	*75,000*	*-0-*
007.	*Martin County Fiscal Court - New Warfield Firehouse - Construction*		
	Restricted Funds	*75,000*	*-0-*
008.	*Martin County Fiscal Court - Pigeon Roost Park - Improvements*		
	Restricted Funds	*50,000*	*-0-*
009.	*Martin County Fiscal Court - Public Library - Automation*		
	Restricted Funds	*50,000*	*-0-*
010.	*Martin County Fiscal Court - Public Library - Rufus Reed - Improvements*		
	Restricted Funds	*25,000*	*-0-*
011.	*Martin County Fiscal Court - Ray Fields Park - Renovation of Swimming Pool*		
	Restricted Funds	*100,000*	*-0-*
012.	*Martin County Fiscal Court - Roy F. Collier Community Center - Operations Grant*		
	Restricted Funds	*250,000*	*-0-*
013.	*Martin County Fiscal Court - Sheriff's Offices - Vehicles*		
	Restricted Funds	*100,000*	*-0-*
014.	*Martin County Fiscal Court - Technology Building - Construction*		
	Restricted Funds	*3,500,000*	*-0-*
015.	*Martin County Fiscal Court - Warfield Park - Improvements*		
	Restricted Funds	*25,000*	*-0-*
016.	*Martin County Fiscal Court - Wolfe Creek Substance Abuse Center for Women - Improvements*		
	Restricted Funds	*200,000*	*-0-*
017.	*Martin County Fiscal Court - Complete Construction on Historical Building*		
	Restricted Funds	*125,000*	*-0-*
McCreary County			
001.	*McCreary County Fiscal Court - Feasibility Study - Cumberland Falls*		
	Restricted Funds	*-0-*	*25,000*

002.	*McCreary County Fiscal Court - Park Site Development*		
	Restricted Funds	*101,300*	*89,700*
003.	*McCreary County Fiscal Court - Senior Citizens Building - Improvements*		
	Restricted Funds	*50,000*	*-0-*
004.	*McCreary County Industrial Development Authority - Industrial Equipment and Development*		
	Restricted Funds	*35,000*	*35,000*
McLean County			
001.	*McLean County Fiscal Court - Broadband*		
	Restricted Funds	*-0-*	*100,000*
002.	*McLean County Fiscal Court - Fire Hydrants*		
	Restricted Funds	*-0-*	*19,362*
003.	*McLean County Fiscal Court - Parks Board*		
	Restricted Funds	*-0-*	*50,000*
004.	*McLean County Fiscal Court - Southeast District Fire Station - Building Expansion*		
	Restricted Funds	*23,379*	*-0-*
005.	*McLean County Fiscal Court - Water Extension - Leachman School House Road*		
	Restricted Funds	*40,000*	*-0-*
006.	*McLean County Fiscal Court - Water Extension - Beech Grove*		
	Restricted Funds	*-0-*	*75,000*
007.	*McLean County Fiscal Court - Water Extension - Leachman School House Road*		
	Restricted Funds	*-0-*	*60,000*
Menifee County			
001.	*City of Frenchburg - Feasibility Study for Horse Trail Development around Cave Run Lake and/or Trail Development at Murder Branch*		
	Restricted Funds	*15,000*	*-0-*
002.	*City of Frenchburg - Pedestrian Walkway - Front of Menifee County High School*		
	Restricted Funds	*20,000*	*-0-*
003.	*Menifee County Board of Education - Botts Elementary - Playground Equipment*		
	Restricted Funds	*15,000*	*-0-*
004.	*Menifee County Board of Education - Botts Elementary School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
005.	*Menifee County Board of Education - Frenchburg Elementary School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		

	Restricted Funds	5,000	-0-
006.	Menifee County Board of Education - Menifee County High School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades		
	Restricted Funds	5,000	-0-
007.	Menifee County Board of Education - Menifee County Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades		
	Restricted Funds	5,000	-0-
008.	Menifee County Board of Education - Menifee County Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	5,000	-0-
009.	Menifee County Fiscal Court - 911 Emergency Dispatch Center Upgrades		
	Restricted Funds	-0-	20,000
010.	Menifee County Fiscal Court - Baseball Field - Improvements		
	Restricted Funds	-0-	20,000
011.	Menifee County Fiscal Court - Emergency Rescue Squad - Equipment and Operations		
	Restricted Funds	-0-	5,000
012.	Menifee County Fiscal Court - Public Library - 50/50 Match Automated Upgrade Grant		
	Restricted Funds	-0-	10,000
013.	Menifee County Fiscal Court - Sheriff - Transport Van		
	Restricted Funds	-0-	30,000
014.	Menifee County Fiscal Court - Sheriff's Office - Equipment		
	Restricted Funds	15,000	5,000
Morgan County			
001.	Morgan County Board of Education - Alternative School Program		
	Restricted Funds	50,000	50,000
002.	Morgan County Board of Education - Canel City Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	5,000	-0-
003.	Morgan County Board of Education - East Valley Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	5,000	-0-

004.	*Morgan County Board of Education - Ezel Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
005.	*Morgan County Board of Education - Football Field - Renovate Dressing Facilities*		
	Restricted Funds	*18,000*	*-0-*
006.	*Morgan County Board of Education - High School - Concession Stand - Equipment and Improvements*		
	Restricted Funds	*10,000*	*-0-*
007.	*Morgan County Board of Education - High School - Football Field - Improvements*		
	Restricted Funds	*20,000*	*-0-*
008.	*Morgan County Board of Education - High School - Track and Practice Field - Improvements*		
	Restricted Funds	*60,000*	*-0-*
009.	*Morgan County Board of Education - Morgan County High School - Day Treatment Drug Program*		
	Restricted Funds	*10,000*	*25,000*
010.	*Morgan County Board of Education - Morgan County High School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
011.	*Morgan County Board of Education - Morgan Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
012.	*Morgan County Board of Education - West Liberty Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
013.	*Morgan County Board of Education - Wrigley Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program and other Enhancements, Physical Fitness and Playground Equipment Upgrades*		
	Restricted Funds	*5,000*	*-0-*
014.	*Appalachian Regional Hospital - Diabetes Program - Regional, Technology and Business Center*		
	Restricted Funds	*20,000*	*20,000*

015.	*Blackwater Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
016.	*Caney Valley Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
017.	*Crockett Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
018.	*Disabled American Vets - Operating Expenses - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*5,000*
019.	*East Kentucky ATV Association - Equipment and Trail Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*10,000*	*-0-*
020.	*Feasibility Study for the Morgan County Saddle Club for Horse Trail Development Around Cave Run Lake/Trail Development*		
	Restricted Funds	*15,000*	*-0-*
021.	*Food Pantry - Regional, Technology and Business Center - Operations*		
	Restricted Funds	*5,000*	*-0-*
022.	*Oral Health Screening for Elderly with UK - Regional, Technology and Business Center*		
	Restricted Funds	*-0-*	*25,000*
023.	*Peddler Gap Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
024.	*Morgan County Public Library - Maintenance, Equipment, and Upgrades*		
	Restricted Funds	*10,000*	*10,000*
025.	*Senior Citizens - Operations - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*5,000*
026.	*Sheriff's Department - Equipment*		
	Restricted Funds	*-0-*	*15,000*
027.	*White Oak Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
028.	*WPA Museum - Operating and Maintenance - Regional, Technology and Business Center*		
	Restricted Funds	*-0-*	*10,000*
029.	*Morgan County Rescue Squad - Operations,*		

	Improvements, and Equipment - Regional, Technology and Business Center		
	Restricted Funds	*5,000*	*-0-*
030.	*519 Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
031.	*Wrigley Fire Department - Equipment, Operating, and Improvements - Regional, Technology and Business Center*		
	Restricted Funds	*5,000*	*-0-*
032.	*Morgan County Board of Education - Morgan County High School Industrial Education Building Renovation*		
	Restricted Funds	*25,000*	*-0-*
033.	*Morgan County Tuition Grant Program - Regional, Technology and Business Center*		
	Restricted Funds	*-0-*	*60,000*
Muhlenberg County			
001.	*City of Bremen - Community Center Repair*		
	Restricted Funds	*10,000*	*-0-*
002.	*City of Drakesboro - Brown Field Remediation Project to Locate City Building Complex on Old Aluminum Smelter Facility*		
	Restricted Funds	*205,000*	*-0-*
003.	*Muhlenberg County Board of Health - Construction of Wellness Center located at the Intersection of Cleaton Rd. and US 62 North or on the West Side of US 62 North Approximately 1/2 Mile North of Northern City Limit of Powderly*		
	Restricted Funds	*1,000,000*	*-0-*
004.	*Muhlenberg County Fiscal Court for Muhlenberg Economic Enterprises Inc. (Industrial Board) to Operate Industrial Recruitment Program for Economic Development of Muhlenberg County*		
	Restricted Funds	*250,000*	*-0-*
005.	*City of Greenville - Divide Equally to all Muhlenberg Fire Departments to Purchase Needed Equipment*		
	Restricted Funds	*35,212*	*-0-*
Ohio County			
001.	*Ohio County Fiscal Court - 911 Equipment - Workstation and Radios*		
	Restricted Funds	*45,000*	*-0-*
002.	*Ohio County Fiscal Court - Airport Water Line with Hydrant*		
	Restricted Funds	*48,000*	*-0-*
003.	*Ohio County Fiscal Court - Ambulance - Vehicle*		
	Restricted Funds	*65,000*	*-0-*
004.	*Ohio County Fiscal Court - Bluegrass*		

	Crossings Industrial Park - Infrastructure		
	Restricted Funds	*174,000*	*-0-*
005.	*Ohio County Fiscal Court - Broadband Infrastructure*		
	Restricted Funds	*250,000*	*-0-*
006.	*Ohio County Fiscal Court - Eight Welcome Ohio County Signs*		
	Restricted Funds	*19,000*	*-0-*
007.	*Ohio County Fiscal Court - Repair Two Bridges - Hamlin Chapel Road #C-285*		
	Restricted Funds	*35,000*	*-0-*
008.	*Ohio County Fiscal Court - Road Department - Backhoe*		
	Restricted Funds	*70,000*	*-0-*
009.	*Ohio County Fiscal Court - Road Department - De-icer Equipment*		
	Restricted Funds	*25,000*	*-0-*
010.	*Ohio County Fiscal Court - Seven Community Weather Sirens*		
	Restricted Funds	*110,000*	*-0-*
011.	*Ohio County Fiscal Court - Sports Complex - Improvements*		
	Restricted Funds	*50,000*	*-0-*
012.	*Ohio County Fiscal Court - Bill Monroe Museum/ Art Center - Planning and Design*		
	Restricted Funds	*250,000*	*-0-*
Owsley County			
001.	*City of Booneville - Match Money for Police Cruiser*		
	Restricted Funds	*8,000*	*-0-*
002.	*Owsley County Board of Education - Capital Construction and Equipment - "The Owl"*		
	Restricted Funds	*25,000*	*25,000*
003.	*Owsley County Fiscal Court - Booneville City Fire Department - Equipment*		
	Restricted Funds	*10,000*	*10,000*
004.	*Owsley County Fiscal Court - Cemetery - Cleanup Costs*		
	Restricted Funds	*-0-*	*15,000*
005.	*Owsley County Fiscal Court - Industrial Authority - Operating Expenses*		
	Restricted Funds	*-0-*	*29,365*
006.	*Owsley County Fiscal Court - Industrial Loan for Spec Building in Industrial Park - Paying Interest on Building*		
	Restricted Funds	*16,126*	*-0-*
007.	*Owsley County Fiscal Court - Island City Fire Department - Equipment*		
	Restricted Funds	*10,000*	*10,000*
008.	*Owsley County Fiscal Court - Senior Citizens Center - Repairs and Construction*		
	Restricted Funds	*100,000*	*100,000*

009.	Owsley County Fiscal Court - Sheriff's Office		
	Restricted Funds	45,000	-0-
010.	Owsley County Fiscal Court - Three Forks Regional Jail - Maintenance and Expenses		
	Restricted Funds	-0-	200,000
011.	Owsley County Fiscal Court - Vincent Fire Department - Equipment		
	Restricted Funds	10,000	10,000
012.	Owsley County Library Board - Land Acquisition		
	Restricted Funds	150,000	-0-
Perry County			
001.	City of Buckhorn - Buckhorn Lake - Economic Development Fund		
	Restricted Funds	150,000	-0-
002.	City of Buckhorn - Sewer and Water - Operations and Expense		
	Restricted Funds	200,000	-0-
003.	City of Hazard - Equipment Fund		
	Restricted Funds	250,000	-0-
004.	Hazard Independent School Board - Expense		
	Restricted Funds	100,000	50,000
005.	Perry County Board of Education - Perry County Schools - Expense and Air Conditioning for High School Gym		
	Restricted Funds	150,000	150,000
006.	Perry County Fiscal Court - Economic Development and Tourism Initiative - Operations and Expense		
	Restricted Funds	100,000	300,000
007.	Perry County Fiscal Court - Avawam Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	5,384	5,384
008.	Perry County Fiscal Court - Buckhorn Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	5,384	5,384
009.	Perry County Fiscal Court - Challenger Center - Operations and Expense		
	Restricted Funds	100,000	100,000
010.	Perry County Fiscal Court - Civil War Reenactment - Tourism Fund		
	Restricted Funds	10,000	10,000
011.	Perry County Fiscal Court - Clerk's Office - Virtual Courthouse Modernization		
	Restricted Funds	50,000	-0-
012.	Perry County Fiscal Court - Cornettsville Volunteer Fire Department - Operations and Equipment		
	Restricted Funds	5,384	5,384
013.	Perry County Fiscal Court - Fisty Volunteer Fire Department - Operations and Equipment		

	Restricted Funds	*5,384*	*5,384*
014.	*Perry County Fiscal Court - Grapevine Chavies Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
015.	*Perry County Fiscal Court - Jakes Branch Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
016.	*Perry County Fiscal Court - Drug Rehabilitation*		
	Restricted Funds	*150,000*	*-0-*
017.	*Perry County Fiscal Court - Krypton Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
018.	*Perry County Fiscal Court - Leatherwood Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
019.	*Perry County Fiscal Court - Lost Creek Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
020.	*Perry County Fiscal Court - Lotts Creek Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
021.	*Perry County Fiscal Court - Park - Expansion and Maintenance*		
	Restricted Funds	*200,000*	*-0-*
022.	*Perry County Fiscal Court - Regional Jail - Operations and Expense*		
	Restricted Funds	*250,000*	*-0-*
023.	*Perry County Fiscal Court - Senior Citizens - Sustenance Fund and New Building Expense*		
	Restricted Funds	*20,000*	*20,000*
024.	*Perry County Fiscal Court - Senior Citizens - Wellness Center*		
	Restricted Funds	*-0-*	*330,000*
025.	*Perry County Fiscal Court - Sewer Treatment - Pilot Project Hiner Sewer*		
	Restricted Funds	*100,000*	*50,000*
026.	*Perry County Fiscal Court - Sheriff - Operating Expense to Combat Drugs*		
	Restricted Funds	*250,000*	*-0-*
027.	*Perry County Fiscal Court - South Perry Water Line - Expansion Phase II and Phase III*		
	Restricted Funds	*73,000*	*442,000*
028.	*Perry County Fiscal Court - Troublesome Creek Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
029.	*Perry County Fiscal Court - University Center of the Mountains - Operations and Expense*		
	Restricted Funds	*-0-*	*500,000*
030.	*Perry County Fiscal Court - University of Kentucky*		

	for Rural Health Indigent Primary School - Operations and Expense		
	Restricted Funds	*250,000*	*-0-*
031.	*Perry County Fiscal Court - Vicco Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
032.	*Perry County Fiscal Court - Viper Volunteer Fire Department - Operations and Equipment*		
	Restricted Funds	*5,384*	*5,384*
033.	*Perry County Fiscal Court - Wendell Ford Airport Expansion*		
	Restricted Funds	*200,000*	*-0-*
034.	*Perry County Fiscal Court - Sewer Maintenance/Improvement*		
	Restricted Funds	*-0-*	*200,000*
035.	*Perry County Fiscal Court - South Perry Water Line Extension*		
	Restricted Funds	*400,000*	*-0-*
Pike County			
001.	*City of Pikeville - Big Sandy Heritage Center*		
	Restricted Funds	*25,000*	*25,000*
002.	*City of Pikeville - Bob Amos Park - Sidewalks and Improvements*		
	Restricted Funds	*100,000*	*100,000*
003.	*City of Pikeville - Domestic Violence Center*		
	Restricted Funds	*75,000*	*75,000*
004.	*City of Pikeville - Humane Society - Operating*		
	Restricted Funds	*100,000*	*-0-*
005.	*City of Pikeville - Marion Branch Economic Development - Construction*		
	Restricted Funds	*500,000*	*500,000*
006.	*City of Pikeville - Pike/Floyd Sewer Project*		
	Restricted Funds	*300,000*	*-0-*
007.	*Mountain Water District - Elkhorn Creek Water*		
	Restricted Funds	*-0-*	*300,000*
008.	*Mountain Water District - Forest Hill Sewer Phase II*		
	Restricted Funds	*1,280,000*	*-0-*
009.	*Mountain Water District - Justiceville/Garden Village Sewer/Shelby Phase IV*		
	Restricted Funds	*-0-*	*1,000,000*
010.	*Mountain Water District - LMI Connections Water Project*		
	Restricted Funds	*400,000*	*-0-*
011.	*Mountain Water District - Millard Water Main Replacement*		
	Restricted Funds	*-0-*	*400,000*
012.	*Mountain Water District - Smith Fork Sewer Project*		
	Restricted Funds	*-0-*	*1,400,000*
013.	*Mountain Water District - Water Plant Expansion*		
	Restricted Funds	*1,000,000*	*-0-*
014.	*Pike County Board of Education - Belfry YSC - Operating*		

	Restricted Funds	4,296	-0-
015.	Pike County Board of Education - Belfry Middle School - Operating		
	Restricted Funds	3,561	-0-
016.	Pike County Board of Education - Bevins Elementary School - Operating		
	Restricted Funds	1,752	-0-
017.	Pike County Board of Education - Blackberry Elementary School - Operating		
	Restricted Funds	1,639	-0-
018.	Pike County Board of Education - Dorton Elementary School - Operating		
	Restricted Funds	3,957	-0-
019.	Pike County Board of Education - East Ridge YSC - Operating		
	Restricted Funds	7,688	-0-
020.	Pike County Board of Education - Elkhorn City Elementary - Operating		
	Restricted Funds	9,893	-0-
021.	Pike County Board of Education - Feds Creek - Operating		
	Restricted Funds	7,123	-0-
022.	Pike County Board of Education - Johns Creek - Operating		
	Restricted Funds	3,844	-0-
023.	Pike County Board of Education - Kimper Elementary School - Operating		
	Restricted Funds	1,865	-0-
024.	Pike County Board of Education - Millard Middle School - Operating		
	Restricted Funds	4,409	-0-
025.	Pike County Board of Education - Mullins - Operating		
	Restricted Funds	2,940	-0-
026.	Pike County Board of Education - Phelps Elementary School - Operating		
	Restricted Funds	4,918	-0-
027.	Pike County Board of Education - Phelps High School - Athletic Field - Improvements		
	Restricted Funds	100,000	-0-
028.	Pike County Board of Education - Phelps YSC - Operating		
	Restricted Funds	8,140	-0-
029.	Pike County Board of Education - Pike Central - Operating		
	Restricted Funds	5,031	-0-
030.	Pike County Board of Education - Pike Central High School - Athletic Complex - Equipment, Operating, and Improvements		

	Restricted Funds	*25,000*	*25,000*
031.	*Pike County Board of Education - Robinson Creek - Operating*		
	Restricted Funds	*4,522*	*-0-*
032.	*Pike County Board of Education - Runyon Elementary School - Operating*		
	Restricted Funds	*4,070*	*-0-*
033.	*Pike County Board of Education - Shelby Valley - Operating*		
	Restricted Funds	*4,296*	*-0-*
034.	*Pike County Board of Education - Shelby Valley High School - Athletic Field - Improvements*		
	Restricted Funds	*100,000*	*-0-*
035.	*Pike County Board of Education - Southside Elementary School - Operating*		
	Restricted Funds	*4,975*	*-0-*
036.	*Pike County Board of Education - Virgie Middle School - Operating*		
	Restricted Funds	*2,261*	*-0-*
037.	*Pike County Board of Education - G.F. Johnson - Operating*		
	Restricted Funds	*2,657*	*-0-*
038.	*Pike County Board of Education - Majestic Elementary School - Operating*		
	Restricted Funds	*6,162*	*-0-*
039.	*Pike County Fiscal Court - Belfry Fire Department - Equipment, Operating, and Improvements*		
	Restricted Funds	*50,000*	*-0-*
040.	*Pike County Fiscal Court - Big Creek Fire Department - Operations*		
	Restricted Funds	*50,000*	*-0-*
041.	*Pike County Fiscal Court - Big Sandy Child Advocacy Center*		
	Restricted Funds	*25,000*	*25,000*
042.	*Pike County Fiscal Court - Blackberry Senior Citizens Program - Construction, Operating, and Improvements*		
	Restricted Funds	*50,000*	*-0-*
043.	*Pike County Fiscal Court - City of Elkhorn City - Housing Development Corporation*		
	Restricted Funds	*100,000*	*-0-*
044.	*Pike County Fiscal Court - East Kentucky Expo Center*		
	Restricted Funds	*100,000*	*-0-*
045.	*Pike County Fiscal Court - Elkhorn City Art Center*		
	Restricted Funds	*100,000*	*-0-*
046.	*Pike County Fiscal Court - Elkhorn City*		

	Heritage Council		
	Restricted Funds	*5,000*	*5,000*
047.	*Pike County Fiscal Court - Elkhorn City Railroad Museum - Equipment, Operating, and Improvements*		
	Restricted Funds	*5,000*	*-0-*
048.	*Pike County Fiscal Court - Elkhorn City Renaissance Program - Equipment, Operating, and Improvements*		
	Restricted Funds	*20,000*	*-0-*
049.	*Pike County Fiscal Court - Elkhorn City Water Lines - Repair, Replace, and Restore - Equipment, Operating, and Improvements*		
	Restricted Funds	*200,000*	*-0-*
050.	*Pike County Fiscal Court - Feds Creek Fire Department - Equipment, Operating, and Improvements*		
	Restricted Funds	*50,000*	*-0-*
051.	*Pike County Fiscal Court - Ferrells Creek Fire Department - Operating and Improvements*		
	Restricted Funds	*50,000*	*-0-*
052.	*Pike County Fiscal Court - Hatfield Fire Department - Equipment, Operating, and Improvements*		
	Restricted Funds	*-0-*	*50,000*
053.	*Pike County Fiscal Court - Hatfield McCoy Trail Development Fund - Tourism Development*		
	Restricted Funds	*100,000*	*-0-*
054.	*Pike County Fiscal Court - Hellier Veterans Center - Improvements*		
	Restricted Funds	*20,000*	*-0-*
055.	*Pike County Fiscal Court - HOPE, Inc. (Three Centers) - Equipment, Operating, and Improvements*		
	Restricted Funds	*75,000*	*75,000*
056.	*Pike County Fiscal Court - Johns Creek Community Center - Improvements*		
	Restricted Funds	*15,000*	*-0-*
057.	*Pike County Fiscal Court - Kimper Fire Department - New Trucks*		
	Restricted Funds	*150,000*	*-0-*
058.	*Pike County Fiscal Court - KY HOPE - Equipment, Operating, and Improvements*		
	Restricted Funds	*80,000*	*80,000*
059.	*Pike County Fiscal Court - Long Fork Community Center - Construction, Equipment, and Operating Costs*		
	Restricted Funds	*50,000*	*150,000*
060.	*Pike County Fiscal Court - Lower Johns Creek Fire Department - Equipment*		
	Restricted Funds	*-0-*	*25,000*
061.	*Pike County Fiscal Court - Old Pond Fire Department*		
	Restricted Funds	*25,000*	*-0-*

062.	*Pike County Fiscal Court - Open Fork Community Center - Equipment, Operating, and Improvements*		
	Restricted Funds	*50,000*	*-0-*
063.	*Pike County Fiscal Court - Phelps Fire Department - Building Expansion*		
	Restricted Funds	*30,000*	*-0-*
064.	*Pike County Fiscal Court - Pike County DAV/VFW - Operating and Improvements*		
	Restricted Funds	*50,000*	*50,000*
065.	*Pike County Fiscal Court - Pike County Fire Departments - Equipment, Operating, and Improvements*		
	Restricted Funds	*100,000*	*100,000*
066.	*Pike County Fiscal Court - Pike County Jail - Improvements*		
	Restricted Funds	*250,000*	*250,000*
067.	*Pike County Fiscal Court - Pike County Recreational Department*		
	Restricted Funds	*240,000*	*240,000*
068.	*Pike County Fiscal Court - Senior Citizens Program - Equipment, Operating, and Improvements*		
	Restricted Funds	*100,000*	*-0-*
069.	*Pike County School Board - Belfry - Athletic Complex - Equipment, Operating, and Improvements*		
	Restricted Funds	*25,000*	*25,000*
070.	*Pike County School Board - Phelps High School - Phelps History Center - Equipment, Operating, and Improvements*		
	Restricted Funds	*35,000*	*35,000*
071.	*KCTCS - Big Sandy Community College - Pikeville Campus Kentucky Coal Academy Program*		
	Restricted Funds	*125,000*	*125,000*
072.	*Pike County Fiscal Court - Pike County Sheriff's Office - Equipment Purchases (Cruisers)*		
	Restricted Funds	*150,000*	*-0-*
073.	*Pike County Fiscal Court - Pikeville Medical Center - Juvenile Drug Treatment Program*		
	Restricted Funds	*125,000*	*125,000*
074.	*Pike County Fiscal Court - Westcare Kentucky - Pike County Facility - Operations Support*		
	Restricted Funds	*125,000*	*125,000*
075.	*Pike County Fiscal Court - Elkhorn City Heritage Council - White Water Park Feasibility Study*		
	Restricted Funds	*25,000*	*-0-*
076.	*Pike County Board of Education - East Ridge High School - Athletic Programs*		
	Restricted Funds	*50,000*	*-0-*
077.	*Pike County Board of Education - Pikeville High School for Athletic Programs*		
	Restricted Funds	*50,000*	*-0-*

Rockcastle County		
001. City of Mt. Vernon - Reconstruct Sidewalk/ Lovell Lane		
Restricted Funds	*40,000*	*-0-*
002. Rockcastle County Fiscal Court - Brindle Ridge Fire Department - Equipment		
Restricted Funds	*10,000*	*7,500*
003. City of Brodhead - Brodhead Fire Department - Equipment		
Restricted Funds	*10,000*	*7,500*
004. Rockcastle County Fiscal Court - Kentucky Music Museum and Hall of Fame - Improvements		
Restricted Funds	*150,000*	*93,800*
005. City of Livingston - Livingston Fire Department - Equipment		
Restricted Funds	*10,000*	*7,500*
006. City of Mt. Vernon - Mt. Vernon Fire Department - Equipment		
Restricted Funds	*10,000*	*7,500*
007. Rockcastle County Fiscal Court - Quail Fire Department - Equipment		
Restricted Funds	*10,000*	*7,500*
008. Rockcastle County Fiscal Court - Rockcastle Fire Department - Equipment		
Restricted Funds	*10,000*	*7,500*
Union County		
001. City of Sturgis - Rest Home - Window Replacement, Tile, and Other Needed Furnishings		
Restricted Funds	*50,000*	*-0-*
002. Union County Fiscal Court - Morganfield Renaissance Park		
Restricted Funds	*15,000*	*-0-*
003. Union County Fiscal Court - Elkwood Public Golf Course - Equipment to Maintain Fairways and Greens, Paving of Cart Path, and Other Needs of the Golf Course Including but not Limited to the Pro Golf Shop		
Restricted Funds	*75,000*	*-0-*
004. Union County Fiscal Court - Public Library - To Purchase Bookcases, Tables, Chairs, Computer Desks, and Other Expenses to Complete Interior		
Restricted Funds	*150,000*	*-0-*
005. Union County Fiscal Court - Sturgis Airport - Dump Truck with Snow Removal Equipment and other Equipment		
Restricted Funds	*84,000*	*-0-*
006. Union County Fiscal Court - Sturgis Amphitheater - Sound Equipment, Roof Upgrade,		

	and Seating Refurbishing		
	Restricted Funds	*50,000*	*-0-*
007.	*Union County Fiscal Court - Union County Correctional Facility - Interest on Bond Payments*		
	Restricted Funds	*450,000*	*450,000*
008.	*Union County Fiscal Court - Union County YMCA - Upgrades of Heating, Air, Sidewalks, Emergency Lighting, Restrooms, and Rehabilitation of the Interior and Exterior of the Building*		
	Restricted Funds	*75,000*	*-0-*
009.	*Union County Fiscal Court - Uniontown Park*		
	Restricted Funds	*10,000*	*-0-*
010.	*Union County Fiscal Court - Van for Senior Services*		
	Restricted Funds	*30,000*	*-0-*
011.	*Union County Fiscal Court - Morganfield Recreational Park - Upgrade Facilities*		
	Restricted Funds	*10,000*	*-0-*
012.	*Union County Fiscal Court - Sturgis Horning Recreational Park - Upgrade Facilities*		
	Restricted Funds	*10,000*	*-0-*
013.	*Union County Fiscal Court - Volunteer Fire and Rescue Squads - Equipment and Upgrade Facilities - Divide Equally*		
	Restricted Funds	*200,000*	*-0-*
014.	*Union County Fiscal Court - Purchase Seven Acres of Property and Develop Small Business Incubator*		
	Restricted Funds	*100,000*	*-0-*
015.	*Union County Fiscal Court - Courthouse Exterior Improvements*		
	Restricted Funds	*1,500*	*-0-*
016.	*Union County Fiscal Court - Moffit Lake Improvements*		
	Restricted Funds	*30,000*	*-0-*
017.	*Union County Fiscal Court - James D. Veatch Museum - Upgrades and Maintenance*		
	Restricted Funds	*30,000*	*-0-*
018.	*Union County Fiscal Court - Union County Economic Development Projects*		
	Restricted Funds	*970,800*	*970,800*
Webster County			
001.	*City of Dixon - First Response Truck*		
	Restricted Funds	*75,000*	*-0-*
002.	*City of Dixon - Lighting for City Park Soccer Field*		
	Restricted Funds	*40,000*	*-0-*
003.	*City of Providence - Debt Service to KIA - Water and Sewer Plant*		
	Restricted Funds	*250,000*	*-0-*
004.	*City of Providence - Fire Station Repair*		

	Restricted Funds	*50,000*	*-0-*
005.	*City of Sebree - Economic Development Building and Repair*		
	Restricted Funds	*200,000*	*-0-*
006.	*City of Providence - Purchase Fire Truck*		
	Restricted Funds	*-0-*	*200,000*
007.	*City of Wheatcroft - City Park Improvements and Equipment*		
	Restricted Funds	*-0-*	*25,000*
008.	*City of Wheatcroft - Fire Department Building*		
	Restricted Funds	*50,000*	*-0-*
009.	*Webster County Fiscal Court - Blackford Bridge Park and Building*		
	Restricted Funds	*50,000*	*-0-*
010.	*Webster County Fiscal Court - Debt Service to KIA - Dixon Sewer*		
	Restricted Funds	*250,000*	*250,000*
011.	*Webster County Fiscal Court - Providence/Webster County Airport Board - Hangar Building and Repairs to Airport*		
	Restricted Funds	*-0-*	*70,000*
012.	*Webster County Industrial Development Authority - Revolving Loan Fund*		
	Restricted Funds	*250,000*	*400,000*
013.	*Webster County Water District - Equipment*		
	Restricted Funds	*250,000*	*-0-*
014.	*City of Clay - Renaissance Program*		
	Restricted Funds	*75,000*	*-0-*
015.	*City of Providence - Renaissance Program*		
	Restricted Funds	*75,000*	*-0-*
Whitley County			
001.	*Whitley County Fiscal Court - Corbin Police Department - One Police Cruiser*		
	Restricted Funds	*-0-*	*35,000*
002.	*Whitley County Fiscal Court - Historical Society - Improvements*		
	Restricted Funds	*10,000*	*-0-*
003.	*Whitley County Fiscal Court - Jail - Reopening and Startup Expense*		
	Restricted Funds	*200,000*	*-0-*
004.	*Whitley County Fiscal Court - Library - Books and Technology Upgrade*		
	Restricted Funds	*-0-*	*30,000*
005.	*Whitley County Fiscal Court - Purchase Equipment for Vegetation Control of Sensitive Areas*		
	Restricted Funds	*-0-*	*10,000*
006.	*Whitley County Fiscal Court - Senior Citizens - Service Upgrade*		
	Restricted Funds	*-0-*	*20,000*

007.	***Whitley County Fiscal Court - Sheriff's Department - Lease and Principal for Two Police Cars***		
	Restricted Funds	***-0-***	***64,000***

Section 43. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; P. Community Development Fund Projects; 1. General Government, at pages 1391 and 1392, is amended to read as follows:

Montgomery County			
001.	Juvenile Justice - Gateway Juvenile Diversion Center Operational Support		
	General Fund	50,000	50,000
002.	Juvenile Justice - Gateway Juvenile Diversion Center Renovation		
	Bond Funds	600,000	-0-
003.	Montgomery County Fiscal Court - Gateway Regional Arts Center		
	General Fund	50,000	50,000
Muhlenberg County			
001.	***Lake Malone State Park - Park Improvements and Miniature Golf Course***		
	Bond Funds	***200,000***	***-0-***
002.	Muhlenberg County Fiscal Court - Courthouse Dome Repair		
	Bond Funds	200,000	-0-
003.	Muhlenberg County Fiscal Court - Muhlenberg County Agricultural Center		
	General Fund	100,000	-0-
Nelson County			
001.	Nelson County Fiscal Court - Kentucky Railway Museum - Renovation/Upgrade, Road Bid and Bridge Improvements		
	Bond Funds	1,700,000	-0-
Oldham County			
001.	Oldham County Fair Board - Oldham County Fairgrounds Facility Renovation and Infrastructure Improvements		
	General Fund	100,000	-0-
002.	Oldham County Fiscal Court - Oldham County Parks Department - South Oldham Little League Improvement to Peggy Baker Park		
	General Fund	15,000	-0-
003.	Oldham County Fiscal Court - Westport Park Improvements		
	General Fund	-0-	250,000
004.	Oldham County Fiscal Court - Library Improvements		
	Bond Funds	1,500,000	-0-
Pendleton County			
001.	Pendleton County Fiscal Court - Athletic Park Infrastructure and Construction of Concession Stand		

	General Fund	50,000	-0-
Pike County			
001.	*Pike County Fiscal Court - Pikeville Medical Center Planning, Design, and Construction*		
	Bond Funds	*1,500,000*	*-0-*
Pulaski County			
001.	City of Burnside - Park Infrastructure Improvement		
	General Fund	50,000	-0-
002.	City of Eubank - City Infrastructure Improvement		
	General Fund	50,000	-0-
003.	City of Science Hill - Park Infrastructure Improvement		
	General Fund	50,000	-0-
004.	City of Somerset - City Park Improvement		
	General Fund	100,000	-0-
005.	Pulaski County Board of Education - Pulaski Secondary Vocational School Project		
	General Fund	300,000	-0-
006.	Pulaski County Fiscal Court - Parks and Recreation Development		
	General Fund	200,000	200,000
Robertson County			
001.	Robertson County Board of Education - Deming School Replacement/Renovations		
	Bond Funds	500,000	-0-
002.	Robertson County Fiscal Court - Mt. Olivet Community Center		
	General Fund	300,000	-0-
Rockcastle County			
001.	City of Mt. Vernon - Relocate Utility Lines For Hospital Expansion		
	General Fund	100,000	-0-

Section 44. 2006 Kentucky Acts Chapter 252, Part XXVII, Judicial Branch Capital Projects Budget; 3. Bond Refinancings, at pages 1461 and 1462, is amended to read as follows:

3. Bond Refinancings

Any savings realized from bonds refinanced after November 1, 2005, associated with a court facility constructed or renovated after July 1, 1994, shall be shared by the local unit of government and the Court of Justice based on the proportional share of the original project costs borne by the local unit of government and the Court of Justice. The length of the term of the refinancing shall not extend beyond the original maturity date of the prior bonds.

The local unit of government may use the savings to make needed improvements to the court facility, if the annual lease payment of the state is not increased as a result of the refinancing. Improvements may consist of but are not limited to holding cells, additional parking, removing physical barriers in order to comply with the American Disabilities Act requirements, space additions for the holding of family court, and other needed improvements as determined by the local unit of government after consulting with the Administrative Office of the Courts.

Any debt obligations issued by or on behalf of a unit of government to finance a court facility leased to the Administrative Office of the Courts shall be publicly bid by the owner of the court facility in accordance with KRS 66.141.

Section 45. 2006 Kentucky Acts Chapter 250, Part I, Operating Budget; 1. Court of Justice; b. Local Facilities Fund; (3) Fayette County Courthouses, at page 1115, is amended to read as follows:

(3) Fayette County Courthouses: Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for improvements to *14* client interview areas in the Fayette County Courthouses.

Section 46. Whereas the vetoed provisions are imperative to the operation of the government of the Commonwealth of

Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 23** is as follows:

HB 23, AN ACT relating to nonprofit agencies and work centers serving the blind or severely disabled.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) "Nonprofit agency or work center serving the blind or severely disabled" or "nonprofit agency or work center" means a program located in the Commonwealth that provides directly or facilitates the provision of vocational rehabilitation services to blind individuals and individuals with severe disabilities, and that provides, singly or in combination, for a blind individual or an individual with a severe disability to enable the individual to maximize opportunities for employment, including career advancement, through:

(a) Medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(b) Testing, fitting, or training in the use of prosthetic and orthotic devices;

(c) Recreational therapy;

(d) Physical and occupational therapy;

(e) Speech, language, and hearing therapy;

(f) Psychiatric, psychological, and social services, including positive behavior management;

(g) Assessment for determining eligibility and vocational rehabilitation needs;

(h) Rehabilitation technology;

(i) Job development, placement, and retention services;

(j) Evaluation or control of specific disabilities;

(k) Orientation and mobility services for individuals who are blind;

(l) Extended employment;

(m) Psychosocial rehabilitation services;

(n) Supported employment services and extended services;

(o) Services to family members when necessary to the vocational rehabilitation of the individual;

(p) Personal assistance services; or

(q) Services similar to the services described in one of paragraphs (a) to (p) of this subsection;

(2) "Blind" means legally blind as defined in KRS 163.460; and

(3) "Individuals with severe disabilities" means persons with a physical disability as defined in KRS 198B.010, persons with a developmental disability as defined in KRS 387.510, and mentally retarded persons and persons with mental illness as both terms are defined in KRS 210.005.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky State Use Commission is created to enhance the purchase of products and services made and offered by nonprofit agencies and work centers serving the blind or severely disabled. The Kentucky State Use Commission is attached to the Finance and Administration Cabinet for administrative purposes.

(2) The Kentucky State Use Commission shall:

(a) Designate a central nonprofit association that shall represent all nonprofit agencies and work centers serving the blind or severely disabled desiring to provide products or services to governmental bodies. The central nonprofit association shall be an established nonprofit association that represents agencies, work centers, or other nonprofit programs serving the blind or severely disabled statewide. The central nonprofit association shall facilitate the distribution of work to nonprofit agencies and work centers serving the blind or severely disabled through direct allocations, subcontracts, or other means, under oversight by the Kentucky State Use Commission. The central nonprofit association may charge a fee to participating nonprofit agencies and work centers for facilitating their participation. The fee shall not exceed rates approved by the Kentucky State Use Commission. The nonprofit agencies and work centers serving the blind or severely disabled may factor this fee into the cost of their products or services as an administrative expense.

(b) Negotiate state contracts with the nonprofit agencies and work centers serving the blind or severely disabled, and determine the contract award in the event that two (2) or more nonprofit agencies and work centers serving the blind or severely disabled are offering identical products and services. The Kentucky State Use Commission shall make this determination based on the quality of the product or service offered by the nonprofit agency or work center and the ability of the nonprofit agency or work center to supply the product or service within the requested delivery time.

(c) Determine annually the current price range on the open market for each product or service offered by the nonprofit agencies and work centers serving the blind or severely disabled.

(d) Make a listing of the products and services provided by nonprofit agencies and work centers serving the blind or severely disabled available to all governmental bodies.

(e) Certify whether a nonprofit agency or work center serving the blind or severely disabled qualifies to offer products or services to governmental bodies. In making this certification, the commission shall determine whether the nonprofit agency or work center:

1. Is organized and operated in the interest of blind individuals or individuals with severe disabilities;

2. Complies with any applicable occupational health and safety law of the United States and the Commonwealth;

3. In the manufacture or provision of products or services listed or purchased under Section 4 of this Act, employs during the fiscal year blind individuals or individuals with severe disabilities for not less than seventy-five percent (75%) of the man-hours of direct labor required for the manufacture or provision of the products or services, or not less than seventy-five percent (75%) of the man-hours of direct labor required for reselling the products or services; and

4. Is registered and in good standing as a nonprofit organization with the Secretary of State.

(f) Implement the provisions of this section through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

(3) The membership of the Kentucky State Use Commission shall consist of ten (10) members including the following:

(a) The secretary of the Finance and Administration Cabinet or the secretary's designee;

(b) The secretary of the Cabinet for Economic Development or the secretary's designee;

(c) The commissioner of the Department for the Blind or the commissioner's designee;

(d) The commissioner of the Department of Vocational Rehabilitation or the commissioner's designee;

(e) One (1) member from nonprofit agencies serving individuals with severe disabilities, to be appointed by the Governor;

(f) One (1) member representing private business who is knowledgeable about the sale of goods or services to governmental bodies, to be appointed by the Governor;

(g) One (1) person with a physical disability as defined by KRS 198B.010, to be appointed by the Governor;

(h) One (1) person who has a developmental disability as defined by KRS 387.510, to be appointed by the Governor;

(i) One (1) person who is legally blind under KRS Chapter 163, to be appointed by the Governor; and

(j) One (1) person who has a mental illness as defined by KRS 210.005(2), to be appointed by the Governor.

(4) The terms of members appointed by the Governor shall be for four (4) years and no member appointed by the Governor shall serve more than eight (8) years in any twelve (12) year period. The Governor shall designate one (1) member to serve as chairperson each year.

(5) No member of the Kentucky State Use Commission shall receive a salary, fee, or other remuneration for services as a member of the commission, but each member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to implementation of the provisions of this section.

(6) The Kentucky State Use Commission shall meet at the call of the Governor or the chair, but no less often than four (4) times during each calendar year. A majority of the members shall constitute a quorum.

(7) By October 1 of each year, the Kentucky State Use Commission shall submit a report to the Governor and the Legislative Research Commission documenting:

(a) Dates and agendas of Kentucky State Use Commission meetings;

(b) Accomplishments in fulfilling its statutory charge; and

(c) The number and dollar value of each state contract with nonprofit agencies and work centers serving the blind or severely disabled in effect, and the breakdown of contracts awarded to nonprofit agencies and work centers serving the blind, and the contracts awarded to nonprofit agencies and work centers serving the severely disabled.

(8) The Kentucky State Use Commission shall use, so far as practical, and subject to the approval of the Governor, secretarial and clerical staff of the executive branch of state government to carry out the provisions of this section.

Section 3. KRS 45A.465 is amended to read as follows:

As used in KRS 45A.470, the words:

(1) "*Kentucky State Use Commission" means the commission created in Section 2 of this Act to enhance and facilitate governmental bodies' purchase of products and services made and offered by nonprofit agencies and work centers serving the blind or severely disabled*[~~Other individuals with severe disabilities" means an individual or class of~~

~~individuals with a disability, other than blindness, that constitutes an obstacle to new or continued normal employment~~].

(2) "Products" means programs, books, tapes, records, processes, packaging, modification, supplies, food, clothing, materials, commodities, equipment of all kinds, and any other article of commerce originally manufactured or assembled or purchased for resale by a qualified nonprofit agency.

(3) "Qualified nonprofit agency ***or work center serving the blind or severely disabled***[~~for individuals with severe disabilities~~]" means an organization ***approved by the Kentucky State Use Commission as meeting the requirements of subsection (2)(e) of Section 2 of this Act***[~~that:~~

~~(a) Is organized and operated in the interest of individuals with severe disabilities; and~~

~~(b) Complies with any applicable occupational health and safety law of the United States and the Commonwealth; and~~

~~(c) In the manufacture or provision of products or services listed or purchased under KRS 45A.470, during the fiscal year employs individuals with severe disabilities for not less than seventy-five percent (75%) of the man-hours of direct labor required for the manufacture or provision of the products or services; and~~

~~(d) Is registered and in good standing as a nonprofit organization with the Secretary of State~~].

(4) "Services" means contractual services; rental services of all kinds; professional, technical, or artistic services; and other personal performance of work by officers, employees, or beneficiaries of a nonprofit agency.

(5) "State agency" means those spending agencies subject to the state purchasing requirements of this code and any regulations promulgated pursuant thereto.

Section 4. KRS 45A.470 is amended to read as follows:

(1) All governmental bodies[~~ and political subdivisions~~] of this state shall, when purchasing commodities or services, ***purchase***[~~give first preference to~~] the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. ***If products or services are not available to be purchased from the Department of Corrections, Division of Prison Industries, purchases***[~~Second preference~~] shall be ***made from qualified nonprofit agencies and work centers serving the blind or severely disabled, when products and services are available***[~~given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the Office for the Blind contracts under KRS 163.480(2)~~] to further the purposes of KRS Chapter 163 and ***nonprofit agencies and work centers serving the blind or severely disabled***[~~agencies of individuals with severe disabilities~~] as described in KRS 45A.465. ***Notwithstanding any other provision of KRS Chapter 45A, Kentucky Correctional Industries and qualified nonprofit agencies and work centers serving the blind or severely disabled shall not be required to engage in competitive or noncompetitive bidding. Prices quoted by qualified nonprofit agencies and work centers serving the blind or severely disabled shall not exceed the current price range for the product or service as determined by the Kentucky State Use Commission.***

(2) The ***Kentucky State Use Commission***[~~Finance and Administration Cabinet~~] shall make a list of commodities and services provided by ***qualified nonprofit***[~~these~~] agencies and ***work centers serving the blind or severely disabled***[~~organizations~~] available to all governmental bodies[~~ and political subdivisions~~]. ***The Finance and Administration Cabinet shall make a list of commodities and services provided by the Kentucky Correctional Industries available to all government bodies.*** The ***lists***[~~list~~] shall identify in detail the commodity or service the ***Kentucky Correctional Industries or the qualified nonprofit*** agency or ***work center***[~~organization~~] may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine***, and assist the Kentucky State Use Commission in its annual determination of,*** the current price range for the commodities and services offered ***using***[~~from~~] its experience ***and historical data*** in purchasing these commodities or services on the open market.[~~ The prices quoted by these agencies or organizations shall not exceed the current price range.~~]

(4) The Office for the Blind within the Education Cabinet and qualified ***nonprofit*** agencies ***and work centers*** for ***the severely disabled***[~~individuals with severe disabilities~~] shall annually cause to be made available to the ***Kentucky State Use Commission***[~~Finance and Administration Cabinet,~~] lists of the products or services available.

(5) If two (2) or more of the ***qualified nonprofit*** agencies ***and work centers for the blind or severely disabled***[~~or qualified nonprofit organizations~~] wish to supply identical commodities or services, the ***Kentucky State Use Commission***[~~Finance and Administration Cabinet~~] shall conduct negotiations with the parties to determine which shall be awarded the contract.[~~ The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.~~]

Section 5. KRS 45A.080 is amended to read as follows:

(1) ***Except as provided by Section 4 of this Act,*** contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include:

(a) Whether specifications can be prepared that permit award on the basis of best value; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state that awards shall be made on the basis of best value. In any contract which is awarded under an invitation to bid which requires delivery by a specified date and imposes a penalty for late delivery, if the delivery is late, the contractor shall be given the opportunity to present evidence that the cause of the delay was beyond his control. If it is the opinion of the purchasing officer that there is sufficient justification for delayed delivery, the purchasing officer may adjust or waive any penalty that is provided for in the contract.

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate, if applicable, and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.

(5) The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value.

(6) Correction or withdrawal of bids shall be allowed only to the extent permitted by regulations issued by the secretary.

Section 6. KRS 45A.085 is amended to read as follows:

(1) When, under administrative regulations promulgated by the secretary or under KRS 45A.180, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095***,***~~[and]~~ 45A.100, ***and Section 4 of this Act,*** a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts other than contracts for projects utilizing an alternative project delivery method under KRS 45A.180 may be competitively negotiated when it is determined in writing by the purchasing officer that the bids received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate.

(4) Contracts for projects utilizing an alternative project delivery method shall be processed in accordance with KRS 45A.180.

(5) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(6) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(7) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where the prices are fixed by law or administrative regulation, except that consideration shall be given to competitive terms and conditions;

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or prior experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable best value procurement, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 7. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, ***pursuant to Section 4 of this Act,*** or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725; and

(h) For agricultural products in accordance with KRS 45A.645.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 8. KRS 45A.100 is amended to read as follows:

(1) ***If purchases are not available under the provisions of Section 4 of this Act,*** procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:

(a) Up to ten thousand dollars ($10,000) per project for construction and one thousand dollars ($1,000) for purchases by any state governmental body, except for those state administrative bodies specified in paragraph (b) of this subsection; and

(b) Up to forty thousand dollars ($40,000) per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

(3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority which exceeds the agency's small purchase limit provided in subsection (1) of this section. Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Nonprofit agency or work center serving the blind or severely disabled" means a program located in the Commonwealth that provides directly or facilitates the provision of vocational rehabilitation services to blind individuals and individuals with severe disabilities, and that provides, singly or in combination, for a blind individual or an individual with a severe disability to enable the individual to maximize opportunities for employment, including career advancement, through:

1. Medical, psychiatric, psychological, social, and vocational services that are provided under one (1) management;

2. Testing, fitting, or training in the use of prosthetic and orthotic devices;

3. Recreational therapy;

4. Physical and occupational therapy;

5. Speech, language, and hearing therapy;

6. Psychiatric, psychological, and social services, including positive behavior management;

7. Assessment for determining eligibility and vocational rehabilitation needs;

8. Rehabilitation technology;

9. Job development, placement, and retention services;

10. Evaluation or control of specific disabilities;

11. Orientation and mobility services for individuals who are blind;

12. Extended employment;

13. Psychosocial rehabilitation services;

14. Supported employment services and extended services;

15. Services to family members when necessary to the vocational rehabilitation of the individual;

16. Personal assistance services; or

17. Services similar to those described in subparagraphs 1. to 16. of this paragraph;

(b) "Blind" means legally blind as defined in KRS 163.460; and

(c) "Individuals with severe disabilities" means persons with a physical disability as defined in KRS 198B.010, persons with a developmental disability as defined in KRS 387.510, and mentally retarded persons and persons with mental illness as both terms are defined in KRS 210.005.

(2) A community rehabilitation credit program is hereby established to provide a tax credit for corporations and pass-through entities that contract with a nonprofit agency or work center serving the blind or severely disabled to provide work opportunities for those individuals.

(3) (a) For tax years beginning on or after January 1, 2008, a corporation or pass-through entity shall be allowed a nonrefundable credit equal to five percent (5%) of the amount paid to a nonprofit agency or work center serving the blind or severely disabled for work performed by individuals with severe disabilities pursuant to a contract with the nonprofit agency or work center serving the blind or severely disabled, if the compensation paid to the individuals is subject to the tax assessed under KRS 141.020.

1. For corporations subject to the tax imposed under KRS 141.040, the credit shall apply against both the tax imposed by KRS 141.040 and 141.0401, with the ordering of credits as provided in Section 10 of this Act;

2. For pass-through entities not subject to the tax under KRS 141.040, the credit shall be applied against the tax imposed by KRS 141.0401 and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of income of the pass-through entity for the year during which the credit is approved, to be used by the partner, member, or shareholder against the tax imposed under KRS 141.020 or 141.040, with the ordering of credits as provided in Section 10 of this Act.

(b) The maximum amount of tax credit that may be claimed by each corporation or pass-through entity shall not exceed twenty-five thousand dollars ($25,000) per nonprofit agency or work center serving the blind or severely disabled per tax year.

(4) The tax credit taken in any tax year shall not exceed the greater of the income tax liability imposed by KRS 141.020 or 141.040, or the limited liability entity tax imposed by KRS 141.0401. A tax credit not used in the tax year generated may be carried forward and used against the income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, for the next two (2) consecutive years.

(5) A credit shall not be allowed under this section unless the corporation or pass-through entity includes, with the return on which the credit is claimed, a form prescribed by the department verifying that:

(a) The corporation or pass-through entity has entered into a contract with a nonprofit agency or work center serving the blind or severely disabled; and

(b) The nonprofit agency or work center serving the blind or severely disabled has received payment from the corporation or pass-through entity for work provided during the taxable year.

Section 10. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(c) The certified rehabilitation credit permitted by KRS 171.397;

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~and~~]

(o) The clean coal incentive credit permitted by KRS 141.428*; and*

(p) The community rehabilitation tax credit permitted by Section 9 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069; and

(d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305; and

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(b) The certified rehabilitation credit permitted by KRS 171.397;

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~and~~]

(o) The clean coal incentive credit permitted by KRS 141.428***; and***

(p) The community rehabilitation tax credit permitted by Section 9 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

The Committee on Appropriations and Revenue reported **HB 187,** with Committee Substitute and Committee Amendment attached thereto, **HB 327** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 187, AN ACT relating to the funding of local jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Beginning July 1, 2008, the state shall reimburse counties for prisoners held in county jails that have had time served in a county jail credited to a sentence pursuant to KRS 532.120(3) or (4). The county shall receive reimbursement for each day of credited time that was served in a county jail. Reimbursement shall be provided in an amount equal to a percentage of the per diem rate established for housing state prisoners after final sentencing, including both the housing and medical expense components of the established per diem. The reimbursement percentage shall be as follows:

(1) For days served on or after July 1, 2008, and before July 1, 2009, the reimbursement percentage shall be twenty-five percent (25%);

(2) For days served on or after July 1, 2009, and before July 1, 2010, the reimbursement percentage shall be fifty percent (50%);

(3) For days served on or after July 1, 2010, and before July 1, 2011, the reimbursement percentage shall be seventy-five percent (75%); and

(4) For days served on or after July 1, 2011, the reimbursement percentage shall be one hundred percent (100%).

The Committee Substitute to **HB 187** is as follows:

HB 187, AN ACT relating to the funding of local jails.

WHEREAS, county jails provide a valuable public service by housing prisoners who would otherwise need to be housed in an overcrowded state system, and by housing state prisoners prior to their sentencing and transfer to state prison; and

WHEREAS, the state does not reimburse counties for inmate housing and medical costs incurred prior to final sentencing and transfer; and

WHEREAS, the costs of operating a county jail consume a substantial and increasing portion of county budgets with limited options available to counties for generating new revenue to offset increasing jail costs; and

WHEREAS, fragmentation in Kentucky's correctional system may contribute to the financial burden placed upon county-operated jails;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan issued or renewed on or after the effective date of this Act shall cover an insured who is charged with violation of a law, but who has not received final sentencing, and is a prisoner confined in a county jail.

(2) The health benefit plan shall be primary over any other coverages covering the same loss which may be available to the insured while so incarcerated prior to final sentencing.

(3) Nothing in this section shall be construed to require coverage of the insured after final sentencing of the insured.

SECTION 2. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An individual health insurance policy issued or renewed on or after the effective date of this Act shall cover an insured who is charged with violation of a law, but who has not received final sentencing, and is a prisoner confined in a county jail.

(2) The policy shall be primary over any other coverages covering the same loss which may be available to the insured while so incarcerated prior to final sentencing.

(3) Nothing in this section shall be construed to require coverage of the insured after final sentencing of the insured.

SECTION 3. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group or blanket health insurance policies issued or renewed on or after the effective date of this Act shall cover an insured who is charged with violation of a law, but who has not received final sentencing, and is a prisoner confined in a county jail.

(2) The policy shall be primary over any other coverages covering the same loss which may be available to the insured while so incarcerated prior to final sentencing.

(3) Nothing in this section shall be construed to require coverage of the insured after final sentencing of the insured.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any policy, plan, or contract issued or renewed by a health maintenance organization on or after the effective date of this Act shall cover an insured who is charged with violation of a law, but who has not received final sentencing, and is a prisoner confined in a county jail.

(2) The policy, plan, or contract shall be primary over any other coverages covering the same loss which may be available to the insured while so incarcerated prior to final sentencing.

(3) Nothing in this section shall be construed to require coverage of the insured after final sentencing of the insured.

SECTION 5. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A limited health benefit plan issued or renewed on or after the effective date of this Act shall cover an insured who is charged with violation of a law, but who has not received final sentencing, and is a prisoner confined in a county jail.

(2) The limited health benefit plan shall be primary over any other coverages covering the same loss which may be available to the insured while so incarcerated prior to final sentencing.

(3) Nothing in this section shall be construed to require coverage of the insured after final sentencing of the insured.

Section 6. KRS 304.17B-015 is amended to read as follows:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

  (a) The individual has been rejected by at least one (1) insurer for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

  (b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or

  (c) The individual has a high-cost condition listed in KRS 304.17B-001.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

  (a) The individual has, or is eligible for, on the effective date of coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;

  (b) The individual is eligible for coverage under Medicaid or Medicare;

  (c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

  (d) Except for covered benefits paid under the standard health benefit plan as specified in KRS 304.17B-019, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the office; or

  (e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs. ***This provision shall not apply to a covered individual who is charged with violation of a law, but who has not received final sentencing, and is a prisoner confined in a county jail. A health benefit plan issued or renewed by Kentucky Access on or after the effective date of this Act is subject to Section 1 of this Act.***

(5) The coverage of any person who ceases to meet the requirements of this section or the requirements of any administrative regulation promulgated under this subtitle may be terminated.

Section 7. KRS 441.045 is amended to read as follows:

(1) The county governing body shall prescribe rules for the government, security, safety, and cleanliness of the jail and the comfort and treatment of prisoners, provided such rules are consistent with state law. The county judge/executive may inspect the jail at any reasonable time.

(2) Willful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

(3) Except as provided in subsections (4) and (5) of this section, the cost of providing necessary medical, dental, and psychological care for indigent prisoners in the jail shall be paid from the jail budget.

(4) The cost of providing necessary medical, dental, or psychological care for prisoners of the United States government shall be paid as provided by contract between the United States government and the county or as may otherwise be provided by federal law.

(5) The cost of providing necessary medical, dental, or psychological care, beyond routine care and diagnostic services, for prisoners held pursuant to a contractual agreement with the state shall be paid as provided by contract between the state and county. The costs of necessary medical, dental, or psychological care, beyond routine care and diagnostic services, of prisoners held in the jail for which the county receives a per diem payment shall be paid by the state.

(6) The cost of providing necessary medical, dental, or psychological care for prisoners held pursuant to a contractual agreement with another county or a city shall be paid as provided by contract between the county or city and county.

(7) ***County reimbursement for care provided by physicians, hospitals, laboratories, or other health care providers for the cost of necessary medical, dental, or psychological care for a prisoner shall not exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, except as may be provided for in subsection (4), (5), or (6) of this section. This subsection shall not be deemed to prevent the creation of new programs, or disallow any existing programs, for the provision of necessary medical, dental, or psychological care for a prisoner that provide for reimbursements less than the payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program.***

(8) When the cost of necessary medical, dental, or psychological care for a prisoner exceeds two thousand dollars ($2,000), as calculated by using the maximum allowable costs to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, the state shall reimburse the county for that portion of the costs that exceeds two thousand dollars ($2,000). The reimbursement shall be subject to the following terms and conditions:

(a) The care is necessary as defined in subsection *(11)*[~~(10)~~] of this section;

(b) The prisoner is indigent as defined in subsection *(9)*[~~(8)~~] of this section, or is uninsured; and

(c) No state reimbursement to the county for care provided by physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, except as provided in subsection *(12)*[~~(11)~~] of this section.

(9)[~~(8)~~] (a) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120. The prisoner shall not be considered indigent, in the case of prisoner medical care, if:

1. The prisoner has funds on his inmate account to cover all or a portion of his medical expenses;
2. The prisoner's medical expenses are covered on a medical insurance policy; or
3. The prisoner has the private resources to pay for the use of the medical facilities.

(b) Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, shall be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment.

(10)[~~(9)~~] The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

(11)[~~(10)~~] For the purposes of this section, "necessary care" means care of a nonelective nature that cannot be postponed until after the period of confinement without hazard to the life or health of the prisoner. The physician attending the prisoner shall certify, under oath, that the care was necessary.

(12)[~~(11)~~] Any money appropriated for a given fiscal year to fund the state's obligation under subsection *(8)*[~~(7)~~] of this section which remains unspent at the end of the year shall not lapse but shall be made available to satisfy, to the maximum extent possible, that portion of each catastrophic claim made during said year above the threshold amount for which the county did not receive state assistance pursuant to subsection *(8)*[~~(7)~~] of this section. In the event there is an insufficient surplus to satisfy said balance of all such catastrophic claims which are made during that year, the state shall pay to those qualified counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. Should the surplus be sufficient to satisfy all such catastrophic claims, the amount remaining, if any, shall not lapse but shall be carried forward to the next fiscal year to be made available for future catastrophic claims.

(13)[~~(12)~~] Notwithstanding other provisions of this section to the contrary, a jail may impose a reasonable fee for the use of

jail medical facilities by a prisoner who has the ability to pay for the medical care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical treatment because he has insufficient funds on his inmate account. This subsection shall not preclude other recovery of funds as provided in this section.

Section 8. (1) There is hereby created a 25 member task force of the Legislative Research Commission on county jails and the criminal justice system. The task force shall initially meet no later than June 1, 2007, and shall report its written recommendations and any proposed legislation in accordance with subsection (3) of this section to the Interim Joint Committees on Appropriations and Revenue and Local Government no later than December 15, 2007. The task force shall cease to exist upon the making of its report.

(2) The task force shall review the following:

(a) The criminal justice system, including a review of the penal code, the court system, and the correctional system, including the impact of each on the other and the role of county jails in the overall system;

(b) The statutory duties of county jailers;

(c) Jail expenditures by state and local governments including factors, events, and

conditions that have influenced expenditures over time;

(d) Funding formulas used by the state to provide funding and reimbursement to county jails and the sufficiency of funds provided;

(e) The cost per day incurred by county jails in housing prisoners and how the cost varies among different facilities;

(f) Statutory and constitutional housing requirements for prisoners;

(g) An inventory of local correctional facilities;

(h) County jail bonding obligations;

(i) Jail census projections; and

(j) Efforts to integrate correctional systems in other states.

(3) After reviewing the issues and data, the task force shall prepare a report and recommendations to address at least the following areas:

(a) An overview of the relationship between the court system, penal code, and correctional system, the influences of each component on the other, and the role played by local jails in the overall system;

(b) The funding of county jails;

(c) The feasibility of integrating the correctional system. If integration is recommended, the report shall include a transition plan, a timetable, and a fiscal estimate. If integration is not recommended, the report shall include recommendations to address funding and other issues identified by the task force relating to county jails; and

(d) Recommendations relating to improvements in the court system and penal code.

(4) The task force shall consist of the following members:

(a) Four county judge/executives, to be appointed by the Legislative Research Commission from a list of eight nominees submitted by the governing body of the Kentucky County Judge/Executive Association;

(b) Four county jailers to be appointed by the Legislative Research Commission from a list of eight nominees submitted by the governing body of the Kentucky Jailers Association;

(c) Two county magistrates/commissioners to be appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky Magistrates & Commissioners Association;

(d) Two members representing the judicial branch to be appointed by the Legislative Research Commission from a list of four nominees submitted by the executive director of the Administrative Office of the Courts;

(e) Two members representing prosecutors to be appointed by the Legislative Research Commission from a list of four nominees submitted by the Prosecutors' Advisory Council;

(f) Two members representing defense attorneys to be appointed by the Legislative Research Commission from a list of four nominees submitted by the Public Advocate;

(g) Three members of the Kentucky House of Representatives to be selected by the Speaker of the House, one of whom shall be designated as a co-chair of the task force;

(h) Three members of the Kentucky Senate to be selected by the President of the Senate, one of whom shall be designated as a co-chair of the task force;

(i) The secretary of the Justice and Public Safety Cabinet or a designee;

(j) The commissioner of the Department of Corrections or a designee; and

(k) The commissioner of the Governor's Office for Local Development or a designee.

(5) Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

(6) The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, and take other steps to ensure a thorough and reasonable study of the issue. The task force shall be staffed by employees of the Legislative Research Commission.

(7) Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HB 187** is as follows:

HB 187, Amend the title to read as follows: "AN ACT relating to medical and other expenses of county jails."

HB 327, AN ACT amending 2006 Kentucky Acts Chapter 252, relating to appropriations for the operations, maintenance, support, and functioning of the executive branch of government of the Commonwealth of Kentucky, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 5. DEPARTMENT OF VETERANS' AFFAIRS, at pages 1144 and 1145, is amended to read as follows:

5. DEPARTMENT OF VETERANS' AFFAIRS

	2006-07	**2007-08**
General Fund	*17,519,000*	*19,500,700*
[~~General Fund~~	~~15,436,200~~	~~16,669,700~~]
Restricted Funds	24,713,700	24,905,700
TOTAL	*42,232,700*	*44,406,400*
[~~TOTAL~~	~~40,149,900~~	~~41,575,400~~]

(1) **Weekend and Holiday Premium Pay Incentive:** The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the 2006-2008 fiscal biennium.

(2) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

(3) **Military Burial Honor Guard Program:** Included in the above General Fund appropriation is an additional $35,000 in each fiscal year to support the Military Burial Honor Guard Program/Veterans' Service Organizational Burial Honor Guard Trust Fund for providing proper support and decorum for veterans' funeral honors. These funds shall not lapse nor be utilized for other than the intended purposes.

Pursuant to KRS 36.390, the Department of Military Affairs shall coordinate with the Department of Veterans' Affairs and the Board of Embalmers and Funeral Directors on the implementation of the Military Burial Honor Guard Program. The Board of Embalmers and Funeral Directors shall mail program notification letters to all licensed embalmers and funeral directors with information related to the program description and contacts for the Military Burial Honor Guard Program. These letters shall be mailed with the annual renewal notifications prior to July 1 each year. New applicants will receive their notification of the program at the time of licensing. The Board of Embalmers and Funeral Directors shall establish a section on the Board's Web site pertaining to the Military Burial Honor Guard Program. The Department of Military Affairs and the Department of Veterans' Affairs shall report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection prior to January 1, 2007, on the implementation of the Military Burial Honor Guard Program. The report shall include recommendations on organizational related matters, training and continuing education needs, equipment requirements for organizations performing or coordinating the honors ceremonies, and the expenditure of funds.

(4) **Debt Service:** Included in the above General Fund appropriation is $84,000 in fiscal year 2006-2007 and *$360,000*[~~$168,000~~] in fiscal year 2007-2008 for debt service to support new bonds for the Western Kentucky Veterans' Center as set forth in Part II, Capital Projects Budget, of this Act.

(5) Veterans' Personal Loan Program: Included in the above General Fund appropriation is $2,500,000 in fiscal year 2007-2008 for the Veterans' Personal Loan Program authorized by KRS 40.650.

(6) Veterans' Personnel Advocate: Included in the above General Fund appropriation is $61,000 in fiscal year 2007-2008 to fund a veterans' personnel advocate to facilitate compliance with state veterans hiring preference requirements.

(7) Conservator Program: Included in the above General Fund appropriation is $78,000 in fiscal year 2007-2008 to establish a Conservator Program.

(8) Operating Budget: Included in the above General Fund appropriation is $2,082,800 in fiscal year 2006-2007 to provide additional operating support.

Section 2. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 7. KENTUCKY INFRASTRUCTURE AUTHORITY, at pages 1145 and 1146, is amended to read as follows:

7. KENTUCKY INFRASTRUCTURE AUTHORITY

	2006-07	2007-08
General Fund	*2,343,500*	*26,862,600*
[~~General Fund~~	~~2,343,500~~	~~25,744,100~~]
Restricted Funds	1,483,300	1,752,600
Federal Funds	50,172,600	50,172,600
TOTAL	*53,999,400*	*78,787,800*
[~~TOTAL~~	~~53,999,400~~	~~77,669,300~~]

(1) **Federally Assisted Wastewater Revolving Loan Fund Program:** Included in the above General Fund appropriation is $188,000 in fiscal year 2007-2008 for debt service to support $4,000,000 in bonds to match $20,000,000 in Federal Funds for the Federally Assisted Wastewater Revolving Loan Fund Program (Fund A).

(2) **Safe Drinking Water State Revolving Loan Fund Program:** Included in the above General Fund appropriation is $188,000 in fiscal year 2007-2008 for debt service to support $4,000,000 in bonds to match $22,000,000 in Federal Funds for the Safe Drinking Water State Revolving Loan Fund Program (Fund F). The Federal Funds for this program are appropriated in the operating budget to comply with the Federal Cash Management Act. The required state matching funds are appropriated as Bond Funds in Part II, Capital Projects Budget, of this Act.

(3) **Administrative Fee on Infrastructure for Economic Development Fund Projects:** A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the Infrastructure for Economic Development Fund for Tobacco Counties. These administrative fees shall be paid, upon inception of the project, out of the fund from which the project was allocated.

(4) **Local Government Economic Development Funds:** Included in the above General Fund appropriation is $370,000 in fiscal year 2006-2007 and $311,700 in fiscal year 2007-2008 from the Local Government Economic Development Fund to support services provided to coal-producing counties.

(5) **Infrastructure for Economic Development Fund for Non-Coal Producing Counties:** Included in the above General Fund appropriation is $13,968,000 in fiscal year 2007-2008 for debt service to support $150,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Non-Coal Producing Counties as set forth in Part II, Capital Projects Budget, of this Act.

(6) **Infrastructure for Economic Development Fund for Coal-Producing Counties:** Included in the above General Fund appropriation is $9,312,000 in fiscal year 2007-2008 for debt service to support $100,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Coal-Producing Counties as set forth in Part II, Capital Projects Budget, of this Act.

(7) Debt Service - Fund B: Included in the above General Fund appropriation is $1,118,500 in fiscal year 2007-2008 for debt service to support $25,000,000 in Bond Funds for the Fund B program as set forth in Part II, Capital Projects Budget, of this Act.

Section 3. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 8. MILITARY AFFAIRS, at pages 1146 and 1147, is amended to read as follows:

8. MILITARY AFFAIRS

	2006-07	2007-08
General Fund	12,588,700	12,799,700
Restricted Funds	*24,271,500*	*24,807,500*
[~~Restricted Funds~~	~~24,271,500~~	~~24,271,500~~]
Federal Funds	62,302,800	62,660,700
TOTAL	*99,163,000*	*100,267,900*
[~~TOTAL~~	~~99,163,000~~	~~99,731,900~~]

(1) **Kentucky National Guard:** There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Disaster or Emergency Aid Funds:** There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus

Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(3) **Base Realignment and Closure:** Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 and $300,000 in fiscal year 2007-2008 for the Kentucky Commission on Military Affairs to support Kentucky's efforts regarding the Base Realignment and Closure process. The Department of Military Affairs shall continue to provide administrative support for this activity.

(4) **Patton Museum:** Included in the above General Fund appropriation is an additional $500,000 in fiscal year 2006-2007 for the Kentucky Commission on Military Affairs to provide funds for a grant to support the operations of the Patton Museum. The Department of Military Affairs shall provide administrative support for this activity.

(5) **Military Burial Honor Guard Program:** Included in the above General Fund appropriation is an additional $200,000 in each fiscal year to support the Military Burial Honor Guard Program/Military Burial Honor Guard Trust Fund for providing the proper support and decorum for military funeral honors pursuant to KRS 36.390 to 36.396. These funds shall not lapse nor be utilized for other than the intended purposes.

Pursuant to KRS 36.390, the Department of Military Affairs shall coordinate with the Department of Veterans' Affairs and the Board of Embalmers and Funeral Directors on the implementation of the Military Burial Honor Guard Program. The Board of Embalmers and Funeral Directors shall mail program notification letters to all licensed embalmers and funeral directors with information related to program description and contacts for the Military Burial Honor Guard Program. These letters shall be mailed with the annual renewal notifications prior to July 1 each year. New applicants will receive their notification of the program at the time of licensing. The Board of Embalmers and Funeral Directors shall establish a section on the Board's web site pertaining to the Military Burial Honor Guard Program. The Department of Military Affairs and the Department of Veterans' Affairs shall report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection prior to January 1, 2007, on the implementation of the Military Burial Honor Guard Program. The report shall include recommendations on organizational related matters, training and continuing education needs, equipment requirements for organizations performing or coordinating the honors ceremonies, and the expenditure of funds.

(6) **Debt Service:** Included in the above General Fund appropriation is $211,000 in fiscal year 2006-2007 and $422,000 in fiscal year 2007-2008 for debt service to support new bonds***, and included in the above Restricted Funds appropriation is $536,000 in fiscal year 2007-2008 for debt service to support new Agency Bond Funds*** as set forth in Part II, Capital Projects Budget, of this Act.

(7) **Military Family Assistance Trust Fund:** Included in the above General Fund appropriation is an additional $500,000 each fiscal year to provide funding to support the Military Family Assistance Trust Fund as codified in Part XXVIII of this Act. Of the total General Fund appropriation, $400,000 each fiscal year shall be used as proceeds for the Fund and $100,000 shall be used for operations.

(8) **Morehead/Rowan County Airport:** The Kentucky National Guard may accept any available federal dollars for construction of a road to the Morehead/Rowan County Airport. The Kentucky National Guard shall work with the Transportation Cabinet to complete this project.

Section 4. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 9. COMMISSION ON HUMAN RIGHTS, at page 1147, is amended to read as follows:

9. COMMISSION ON HUMAN RIGHTS

		2005-06	2006-07	2007-08
	General Fund	***-0-***	***2,060,900***	***2,159,100***
[	~~General Fund~~	~~0~~	~~1,840,900~~	~~1,859,100~~]
	Restricted Funds	-0-	1,700	1,600
	Federal Funds	126,100	293,400	305,700
	TOTAL	***126,100***	***2,356,000***	***2,466,400***
[	~~TOTAL~~	~~126,100~~	~~2,136,000~~	~~2,166,400~~]

(1) Included in the above General Fund appropriation is $220,000 for fiscal year 2006-2007 and $300,000 for fiscal year 2007-2008 to improve the operation of the Commission on Human Rights as recommended by the Blue Ribbon Panel that studied the Commission, as directed by Executive Order 2005-219.

Section 5. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 11. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT, at pages 1147 and 1148, is amended to read as follows:

11. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

		2006-07	2007-08
	General Fund	***13,498,500***	***23,418,400***
[	~~General Fund~~	~~13,498,500~~	~~20,887,400~~]
	Restricted Funds	2,585,600	2,085,600
	Federal Funds	55,564,200	55,564,200

TOTAL	*71,648,300*	*81,068,200*
[~~TOTAL~~	~~71,648,300~~	~~78,537,200~~]

(1) **Flood Control Matching Fund Project Review:** The Governor's Office for Local Development shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Environmental and Public Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

(2) **Owenton/Owen County Natural Gas Line Project:** Included in the above General Fund appropriation is $234,000 in fiscal year 2007-2008 to provide new debt service for the Owenton/Owen County Natural Gas Line Project as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Support of the 12 Multicounty Regional Industrial Park Authorities:** Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2006-2007 and $300,000 in fiscal year 2007-2008 in support of the 12 multicounty regional industrial park authorities. Funds shall be distributed equally to the 12 multicounty regional industrial park authorities for marketing and maintenance of the industrial parks and the procurement of property and casualty insurance on the parks.

(4) **Buckhorn Children's Home:** Included in the above Restricted Funds appropriation is $500,000 in fiscal year 2006-2007 for a grant to the Buckhorn Children's Home.

(5) **Prior Year Funded Community Development Projects:** Notwithstanding any statutory provision or agreement between a state agency and any local government to the contrary, any fund balance remaining in any Community Development Project appropriated in 2000 Ky. Acts ch. 549, Part II, Section R, remain authorized and may be retained by the local entity and expended in a manner consistent with the intent and purpose of the appropriation. The Secretary of the Finance and Administration Cabinet, pursuant to KRS 48.500, shall make any determination necessary to effect this provision.

(6) **Debt Service - Warren County Fiscal Court - Transpark - Rail Spur:** Included in the above General Fund appropriation is $422,000 in fiscal year 2007-2008 for debt service to support $4,500,000 Bond Funds for the Warren County Fiscal Court Transpark, for Rail Spur and Infrastructure Improvements, as set forth in Part II, Capital Projects Budget, of this Act.

(7) **Jessamine County Fiscal Court - Building Restoration in Nicholasville:** Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for a grant to Jessamine County Fiscal Court for building restoration in Nicholasville.

(8) **Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia:** Included in the above General Fund appropriation is $100,000 in fiscal year 2006-2007 for a grant to Chamber of Commerce/Vision 2015 Northern Kentucky Encyclopedia.

(9) **Scott County Fiscal Court - Buffalo Park Improvement and Infrastructure:** Included in the above General Fund appropriation is $150,000 in fiscal year 2006-2007 for a grant to Scott County Fiscal Court for the Buffalo Park Improvement and Infrastructure.

(10) **City of Covington - Timestar Commons - Planning:** Included in the above General Fund appropriation is $250,000 in fiscal year 2006-2007 for a grant to the City of Covington for Timestar Commons planning.

(11) **City of Ludlow - Municipal Meeting Center:** Included in the above General Fund appropriation is $225,000 in fiscal year 2006-2007 for a grant to the City of Ludlow for Phases I through III of the upgrade and renovation of the Municipal Meeting Center.

(12) **Richmond Arts Council:** Included in the above General Fund appropriation is $100,000 in fiscal year 2006-2007 and $100,000 in fiscal year 2007-2008 for a grant to the Richmond Arts Council.

(13) **Debt Service - Community Development Fund Projects:** Included in the above General Fund appropriation is $7,045,000 in fiscal year 2007-2008 for debt service to support $75,658,000 in Bond Funds for the Community Development Fund Projects, as set forth in Part II, Capital Projects Budget, of this Act.

(14) Debt Service - Louisville Zoo - Glacier Run: Included in the above General Fund appropriation is $561,000 in fiscal year 2007-2008 for debt service on $6,000,000 in Bond Funds for the Louisville Zoo - Glacier Run project as set forth in Part II, Capital Projects Budget, of this Act.

(15) Governor's Office for Local Development: Included in the above General Fund appropriation is an additional $1,500,000 in fiscal year 2007-2008 to increase support for administration of the Area Development Districts.

(16) Debt Service: Included in the above General Fund appropriation is $1,031,000 in fiscal year 2007-2008 for debt service on $23,000,000 in Bond Funds for projects as set forth in Part II, Capital Projects Budget, of this Act.

Section 6. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 22. AGRICULTURE, at pages 1153 and 1154, is amended to read as follows:

22. AGRICULTURE

	2006-07	**2007-08**
General Fund	19,803,100	21,529,700
Restricted Funds	4,937,200	4,548,900
Federal Funds	3,947,400	3,889,200

TOTAL	28,687,700	29,967,800

(1) **Breathitt Veterinary Center and Diagnostic Laboratories:** Included in the above General Fund appropriation is $478,500 in fiscal year 2006-2007 and $478,500 in fiscal year 2007-2008 for the Breathitt Veterinary Center at Murray State University and $478,500 in fiscal year 2006-2007 and $478,500 in fiscal year 2007-2008 for the University of Kentucky for the diagnostic laboratories.

(2) **Enforcement of Tobacco Product Sale Restrictions:** Included in the above General Fund appropriation is $260,000 in fiscal year 2006-2007 and $260,000 in fiscal year 2007-2008 to carry out the provisions of KRS 438.335.

(3) **Purchase of Agricultural Conservation Easement (PACE) Program:** The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary. The Department of Agriculture may receive funds from local and private sources to match Federal Funds for the Purchase of Agricultural Conservation Easement (PACE) Program.

(4) **Metrology Lab Operating Fees:** The Department of Agriculture may promulgate administrative regulations establishing license fees, testing fees, and any other fees necessary to operate and maintain a metrology lab in the Department of Agriculture. These Restricted Funds receipts shall be utilized for personnel and operations of the metrology lab.

(5) **County Fair Grants:** Included in the above General Fund appropriation is $495,000 in fiscal year 2006-2007 and $495,000 in fiscal year 2007-2008 to support the capital improvement grants to the Local Agricultural Fair Program.

(6) Debt Service: Included in the above General Fund appropriation is $462,000 in fiscal year 2007-2008 for debt service to support new bonds for Animal Shelters as set forth in Part II, Capital Projects Budget, of this Act.

Section 7. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 25. KENTUCKY RETIREMENT SYSTEMS, at page 1155, is amended to read as follows:

25. KENTUCKY RETIREMENT SYSTEMS

	2005-06	2006-07	2007-08
General Fund	*-0-*	*25,000,000*	*-0-*
Restricted Funds	1,235,000	22,580,700	24,253,100
TOTAL	*1,235,000*	*47,580,700*	*24,253,100*

(1) **Dependent Subsidy for Retirees - Kentucky Employee Retirement System:** From July 1, 2006, through December 31, 2007, in addition to the benefits conferred under KRS 61.702, a recipient of a nonhazardous monthly retirement allowance shall also be eligible for the dependent subsidy as provided under the terms established by the State Group Health Insurance Program. The dependent subsidy conferred to recipients of a nonhazaradous monthly retirement allowance shall not be considered as a benefit protected by the inviolable contract provisions of KRS 61.692, 16.652 and 78.852.

(2) **Dependent Subsidy for Retirees - County Employees Retirement System:** From July 1, 2006, through December 31, 2007, in addition to the benefits conferred under KRS 61.702, a recipient of a nonhazardous monthly retirement allowance shall also be eligible for the dependent subsidy as provided under the terms established by the State Group Health Insurance Program. The dependent subsidy conferred to recipients of a nonhazaradous monthly retirement allowance shall not be considered as a benefit protected by the inviolable contract provisions of KRS 61.692, 16.652 and 78.852.

(3) Additional Funds for Medical Insurance Fund: Included in the above General Fund appropriation is an additional $25,000,000 in fiscal year 2006-2007 for the Kentucky Retirement Systems Insurance Fund as established in KRS 61.701, to be allocated in proportion to the contributions required according to KRS 61.702(2) for the Kentucky Employees Retirement System Insurance Fund and the State Police Retirement System Insurance Fund.

Section 8. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 28. KENTUCKY RIVER AUTHORITY, at page 1159, is amended to read as follows:

28. KENTUCKY RIVER AUTHORITY

	2006-07	2007-08
General Fund	368,200	1,978,800
Restricted Funds	***5,436,600***	***3,434,800***
[~~Restricted Funds~~	~~5,436,600~~	~~4,414,800~~]
TOTAL	*5,804,800*	*5,413,600*
[~~TOTAL~~	~~5,804,800~~	~~6,393,600~~]

(1) **Water Withdrawal Fees:** The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

(2) **Debt Service - Kentucky River Locks and Dams Maintenance and Renovations Pool**: Included in the above ***General Fund appropriation is $1,630,000 in fiscal year 2007-2008 for debt service on $17,500,000 in Bond Funds, and in the*** Restricted Funds appropriation ***is $2,112,000***[~~$3,092,000~~] in fiscal year 2007-2008 for debt service on ***$23,600,000***[~~$33,200,000~~]

in Agency Bond Funds for the Kentucky River Locks and Dams Maintenance and Renovations Pool, as set forth in Part II, Capital Projects Budget, of this Act. The Agency Bonds may be issued by the State Property and Buildings Commission or the Kentucky Asset Liability Commission.

Section 9. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; A. GENERAL GOVERNMENT; 30. TEACHERS' RETIREMENT SYSTEM, at pages 1160 and 1161, is amended to read as follows:

30. TEACHERS' RETIREMENT SYSTEM

	2006-07	2007-08
General Fund	*182,326,100*	*183,323,100*
[~~General Fund~~	~~157,326,100~~	~~183,323,100~~]
Restricted Funds	9,409,300	10,361,500
TOTAL	*191,735,400*	*193,684,600*
[~~TOTAL~~	~~166,735,400~~	~~193,684,600~~]

(1) **State Retirement Obligations:** Notwithstanding KRS 161.550, General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

(2) **Administrative Costs:** In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2006-2007 or fiscal year 2007-2008 for the cost of administration.

(3) **Amortization of Sick Leave:** Included in the above General Fund appropriation is $4,293,800 in fiscal year 2006-2007 and $9,211,000 in fiscal year 2007-2008 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2006-2008 fiscal biennium.

(4) **Cost-of-Living Increase for Retirees:** Included in the above General Fund appropriation is $4,312,800 in fiscal year 2006-2007 and $7,865,100 in fiscal year 2007-2008 to provide, when combined with the annual one and one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent in fiscal year 2006-2007 and an additional two and one-tenths in fiscal year 2007-2008.

(5) **Supplemental Health Insurance Funding:** Notwithstanding KRS 161.675(4)(a) included in the above General Fund appropriation is $50,000 in each fiscal year to enable the retirement system to provide a subsidy from July 1, 2006, through December 31, 2007, for those retired state members over age 65 that insure their spouses under age 65 through the state health insurance plan. The amount of the subsidy for those over age 65 shall not exceed the amount of the subsidy for members under age 65 that choose couple, family, or parent plus coverage. The spousal subsidy is not subject to KRS 161.714.

(6) **State Medical Insurance Fund Stabilization Contribution:** Notwithstanding KRS 161.420 and 161.550, a portion of the state employer contribution in a sufficient amount shall be allocated to the Teachers' Retirement System Medical Insurance Fund instead of the State Accumulation Fund. Also included in the above General Fund appropriation is $14,133,200 in fiscal year 2007-2008 to amortize the cost of the State Medical Insurance Fund Stabilization Contribution with the remainder to be amortized under the schedule set forth in KRS 161.553.

(7) **Dependent Subsidy for Retirees under age 65:** Notwithstanding KRS 161.675(4)(a), from July 1, 2006, through December 31, 2007, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System shall pay the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. The dependent subsidy is not subject to KRS 161.714.

(8) **Ad Hoc State Contribution:** Included in the above General Fund appropriation is $12,974,100 in fiscal year 2006-2007 and $29,444,100 in fiscal year 2007-2008 for an ad hoc contribution to the State Accumulation Fund.

(9) **Highly Skilled Educators' Retirement Benefits:** Salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

(10) Additional Funds for Medical Insurance Stabilization: Included in the above General Fund appropriation is an additional $25,000,000 in fiscal year 2006-2007 for the Kentucky Teachers' Retirement System's medical insurance fund as established in KRS 161.420 to augment the state medical insurance stabilization contribution as established in KRS 161.550.

Section 10. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; B. COMMERCE CABINET; 4. TOURISM, at page 1163, is amended to read as follows:

4. TOURISM

	2006-07	2007-08
General Fund	*7,130,500*	*8,476,500*
[~~General Fund~~	~~7,130,500~~	~~7,176,500~~]

Restricted Funds	8,700,000	9,200,000
TOTAL	*15,830,500*	*17,676,500*
[~~TOTAL~~	~~15,830,500~~	~~16,376,500~~]

(1) **Tourism Marketing and Development:** Included in the above Restricted Funds appropriation is $1,000,000 in fiscal year 2006-2007 and $1,000,000 in fiscal year 2007-2008 for Tourism Marketing and Development on behalf of the coal-producing counties. Fees for professional artists and entertainers performing on the Kentucky Music Trail may be paid from the Tourism Marketing Program.

(2) **Bluegrass State Games:** Included in the above General Fund appropriation is $50,000 in each fiscal year for the Bluegrass State Games.

(3) Ryder Cup Host Requirements: Included in the above General Fund appropriation for the Department of Tourism is $1,300,000 in fiscal year 2007-2008 for expenses related to hosting the 2008 Ryder Cup matches to be held in Louisville.

Section 11. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; B. COMMERCE CABINET; 5. PARKS, at pages 1163 and 1164, is amended to read as follows:

5. PARKS

	2006-07	**2007-08**
General Fund	*32,478,400*	*31,145,400*
[~~General Fund~~	~~27,978,400~~	~~31,145,400~~]
Restricted Funds	55,217,700	56,335,600
TOTAL	*87,696,100*	*87,481,000*
[~~TOTAL~~	~~83,196,100~~	~~87,481,000~~]

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

(2) Debt Service: Included in the above General Fund appropriation is $3,167,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Nicholas Hildreth School:** Included in the above Restricted Funds appropriation is $60,000 in fiscal year 2006-2007 to move the Nicholas Hildreth School to Blue Licks Battlefield State Park.

(5) Operating Budget: Included in the above General Fund appropriation is $4,500,000 in fiscal year 2006-2007 to provide additional operating support.

Section 12. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; B. COMMERCE CABINET; 6. HORSE PARK COMMISSION, at page 1164, is amended to read as follows:

6. HORSE PARK COMMISSION

	2006-07	**2007-08**
General Fund	*1,708,200*	*6,288,700*
[~~General Fund~~	~~1,708,200~~	~~5,034,200~~]
Restricted Funds	6,239,300	6,246,500
TOTAL	*7,947,500*	*12,535,200*
[~~TOTAL~~	~~7,947,500~~	~~11,280,700~~]

(1) **Debt Service:** Included in the above General Fund appropriation is ***$4,653,500***[~~$3,399,000~~] in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

Section 13. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; B. COMMERCE CABINET; 7. STATE FAIR BOARD, at page 1164, is amended to read as follows:

7. STATE FAIR BOARD

	2006-07	**2007-08**
General Fund	396,800	553,800
Restricted Funds	37,058,600	37,821,900
TOTAL	37,455,400	38,375,700

(1) **Debt Service:** Included in the above Restricted Funds appropriation is $4,322,100 in fiscal year 2006-2007 and $4,424,400 in fiscal year 2007-2008 for previously issued bonds.

(2) Debt Service: Included in the above General Fund appropriation is $157,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

Section 14. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; B. COMMERCE CABINET; 9.

HISTORICAL SOCIETY, at page 1164, is amended to read as follows:

9. HISTORICAL SOCIETY

	2005-06	2006-07	2007-08
General Fund	*125,000*	*8,762,800*	*8,671,500*
[~~General Fund~~	~~125,000~~	~~8,762,800~~	~~8,045,500~~]
Restricted Funds	-0-	760,900	819,600
Federal Funds	-0-	1,004,200	516,800
TOTAL	*125,000*	*10,527,900*	*10,007,900*
[~~TOTAL~~	~~125,000~~	~~10,527,900~~	~~9,381,900~~]

(1) **City of Hodgenville:** Included in the above General Fund appropriation is $750,000 in fiscal year 2006-2007 to provide a grant for the City of Hodgenville to match Federal Funds.

(2) **Abraham Lincoln Bicentennial Commission:** Included in the above General Fund appropriation is $2,000,000 in each year of the biennium for the Abraham Lincoln Bicentennial Commission.

(3) **Perryville Battlefield:** Included in the above General Fund appropriation is $75,000 in fiscal year 2005-2006 for the 2006 reenactment of the battle at Perryville.

(4) **Lincoln Wedding Reenactment:** Included in the above General Fund appropriation is $50,000 in fiscal year 2005-2006 for the Abraham Lincoln Bicentennial Commission to support the Lincoln Wedding Reenactment.

(5) **Debt Service:** Included in the above General Fund appropriation is $32,000 in fiscal year 2007-2008 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(6) Frazier International History Museum: Included in the above General Fund appropriation is $626,000 in fiscal year 2007-2008 for a grant to the Frazier International History Museum in Louisville to provide a touring production and permanent exhibit in commemoration of the Abraham Lincoln Bicentennial and support for an exhibit in conjunction with the 2008 Ryder Cup.

Section 15. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; C. ECONOMIC DEVELOPMENT CABINET; 1. SECRETARY, at pages 1165 and 1166, is amended to read as follows:

1. SECRETARY

	2006-07	2007-08
General Fund	*18,619,000*	*26,550,200*
[~~General Fund~~	~~16,619,000~~	~~21,550,200~~]
Restricted Funds	1,340,000	1,340,000
TOTAL	*19,959,000*	*27,890,200*
[~~TOTAL~~	~~17,959,000~~	~~22,890,200~~]

(1) **New Economy High-Tech Construction and High-Tech Investment Pools:** Included in the above General Fund appropriation is $1,026,000 in fiscal year 2007-2008 for new debt service as set forth in Part II, Capital Projects Budget, of this Act. The Commissioner of the Department for Commercialization and Innovation shall determine the amounts to be apportioned between the High-Tech Investment and High-Tech Construction Pools.

(2) **Funding for Commercialization and Innovation:** Notwithstanding Subchapter 20 of KRS Chapter 154, interest income earned on balances in the High-Tech Construction Pool and the High-Tech Investment Pool shall be used to support the Department for Commercialization and Innovation within the Cabinet for Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Tech Construction Pool and High-Tech Investment Pool projects. Loan repayments received by the High-Tech Construction and High-Tech Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget, of this Act.

(3) **Louisville Waterfront Development Corporation:** Included in the above General Fund appropriation is $420,800 in fiscal year 2006-2007 and $420,800 in fiscal year 2007-2008 for the Louisville Waterfront Development Corporation.

(4) Funding for Commercialization and Innovation: Included in the above General Fund appropriation is $2,000,000 in fiscal year 2006-2007 and $2,000,000 in fiscal year 2007-2008 in additional funds for the Small Business Innovation Research grant program. Included in the above General Fund appropriation is $3,000,000 in fiscal year 2007-2008 in additional funds for the High-Tech Construction/Investment Pool.

Section 16. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; C. ECONOMIC DEVELOPMENT CABINET; 3. FINANCIAL INCENTIVES, at page 1166, is amended to read as follows:

3. FINANCIAL INCENTIVES

	2006-07	2007-08
General Fund	*3,200,000*	*14,462,500*

[~~General Fund~~	~~3,200,000~~	~~4,015,000~~]
Restricted Funds	1,789,600	1,810,600
TOTAL	*4,989,600*	*16,273,100*
[~~TOTAL~~	~~4,989,600~~	~~5,825,600~~]

(1) **Debt Service:** Included in the above General Fund appropriation is *$1,262,500*[~~$815,000~~] in fiscal year 2007-2008 for debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Carry Forward of General Fund Appropriation Balance for Bluegrass State Skills Corporation:** Notwithstanding KRS 45.229, the General Fund appropriation balance for training grants for fiscal year 2006-2007 and for fiscal year 2007-2008 for the Bluegrass State Skills Corporation shall not lapse and shall carry forward. The Corporation is authorized to extend an additional $1,500,000 in training grant offers during the 2006-2008 biennium. If such offers are made and disbursements are required to support those offers, funds shall be appropriated from the General Fund Surplus Account (KRS 48.700) in an amount not to exceed $1,500,000.

(3) Ford Training: Included in the above General Fund appropriation is $10,000,000 in fiscal year 2007-2008 for training grants to Ford Motor Company.

Section 17. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; D. DEPARTMENT OF EDUCATION; 2. OPERATIONS AND SUPPORT SERVICES, at page 1167, is amended to read as follows:

2. OPERATIONS AND SUPPORT SERVICES

	2006-07	**2007-08**
General Fund	36,925,500	56,074,400
Restricted Funds	7,210,100	7,210,100
Federal Funds	8,527,800	8,527,800
TOTAL	52,663,400	71,812,300

(1) **Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is $2,705,600 in fiscal year 2006-2007 and $2,840,900 in fiscal year 2007-2008 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

(2) Debt Service: Included in the above General Fund appropriation is $8,898,000 in fiscal year 2007-2008 to provide for debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **School Technology in Coal Counties:** Included in the above Restricted Funds appropriation is $5,000,000 in each fiscal year from the Local Government Economic Development Multi-County Fund for the purpose of enhancing education technology in local school districts within coal-producing counties. The Commissioner of the Department of Education is authorized to use up to $1,000,000 of the above $5,000,000 appropriation in each fiscal year to make offers of assistance to qualifying local school districts in coal-producing counties to fund technology projects; to be eligible for these offers of assistance, local school districts may be required to provide a match of not more than two to one from any of their other funding courses. The Commissioner of the Department of Education shall use $2,500,000 of the above $5,000,000 appropriation to continue the Coal County Computing program. The Commissioner of the Department of Education shall distribute the remainder of the above $5,000,000 appropriation to coal-producing counties in a manner consistent with distributions to local school districts from the Kentucky Education Technology System; these funds shall be in addition to any regular distribution to coal-producing counties from the Kentucky Education Technology System.

(4) **Education Technology Program:** Included in the above General Fund appropriation is $19,500,000 in each fiscal year for the Education Technology Program.

Section 18. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; D. DEPARTMENT OF EDUCATION; 3. LEARNING AND RESULTS SERVICES, at pages 1168 and 1169, is amended to read as follows:

3. LEARNING AND RESULTS SERVICES

	2006-07	**2007-08**
General Fund (Tobacco)	1,388,400	1,508,400
General Fund	*791,940,900*	*846,939,300*
[~~General Fund~~	~~791,940,900~~	~~839,939,300~~]
Restricted Funds	2,621,200	2,621,200
Federal Funds	679,119,100	678,843,600
TOTAL	*1,475,069,600*	*1,529,912,500*
[~~TOTAL~~	~~1,475,069,600~~	~~1,522,912,500~~]

(1) **Funding for Employer Health and Life Insurance:** If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor

upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. The per-month per-employee administrative assessment shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

(2) **Kentucky School for the Blind and Kentucky School for the Deaf:** Included in the above General Fund appropriation is $6,441,400 in fiscal year 2006-2007 and $6,657,100 in fiscal year 2007-2008 for the Kentucky School for the Blind, and $9,003,200 in fiscal year 2006-2007 and $9,304,200 in fiscal year 2007-2008 for the Kentucky School for the Deaf.

(3) **Kentucky Education Technology System:** (a) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.660, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(b) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

(4) **Family Resource and Youth Services Centers:** Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2006-2007 and in fiscal year 2007-2008 to the Cabinet for Health and Family Services consistent with the intent of KRS 156.497. The Cabinet for Health and Family Services is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Health and Family Services identifying the salary of the director. The Cabinet for Health and Family Services shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

(5) **Health Insurance:** Included in the above General Fund appropriation is $465,808,000 in fiscal year 2006-2007 for employer contributions for health insurance and the contribution to the flexible spending account for employees waiving coverage. Included in the above General Fund appropriation is $503,855,000 in fiscal year 2007-2008 for employer contributions for health insurance and the contribution to the flexible spending account for employees waiving coverage.

(6) **Learning and Results Services Programs:** Notwithstanding KRS 156.265, included in the above General Fund appropriation are the following allocations for the 2006-2008 fiscal biennium:

(a) $31,859,500 in each fiscal year for the Extended School Services Program;

(b) $51,850,700 in each fiscal year for the Family Resource and Youth Services Centers Program;

(c) $75,127,000 in each fiscal year for the Preschool Program;

(d) $15,034,700 in each fiscal year for the Professional Development Program;

(e) $10,378,300 in each fiscal year for the Safe Schools Program;

(f) $1,400,000 in fiscal year 2007-2008 for ACT and WorkKeys testing;

(g) $21,700,100 in each fiscal year for the Textbooks Program;

(h) $1,200,000 in fiscal year 2006-2007 and $1,400,000 in fiscal year 2007-2008 for the Collaborative Center for Literacy Development;

(i) $8,369,200 in each fiscal year for the Commonwealth Accountability Testing System (CATS);

(j) $616,500 in each fiscal year for the Blind/Deaf Residential Travel Program;

(k) $2,100,000 in each fiscal year for the Community Education Program;

(l) $720,900 in each fiscal year for the Dropout Prevention Program;

(m) $20,558,100 in fiscal year 2006-2007 and $23,558,100 in fiscal year 2007-2008 for the Early Reading Incentive Grant/Read to Achieve Program;

(n) $7,121,500 in each fiscal year for the Gifted and Talented Program;

(o) $4,276,700 in each fiscal year for the School Food Services match;

(p) $10,962,100 in each fiscal year for the State Agency Children Program;

(q) $1,600,000 in each fiscal year for the Teacher Academies Program;

(r) $1,886,700 in each fiscal year for the Teacher Recruitment and Retention Program;

(s) $800,000 in each fiscal year for the Virtual Learning Program;

(t) $10,945,400 in fiscal year 2006-2007 and $11,175,400 in fiscal year 2007-2008 for the Locally Operated Vocational Schools;

(u) $610,300 in each fiscal year for the Writing Program;

(v) $500,000 in each fiscal year for the Every1 Reads Program;

(w) $2,257,000 in fiscal year 2006-2007 and $2,378,700 in fiscal year 2007-2008 for Local School District Life Insurance;

(x) $484,400 in each fiscal year for the Elementary Arts and Humanities Program;

(y) $3,000,000 in fiscal year 2006-2007 and ***$13,900,000***[~~$6,900,000~~] in fiscal year 2007-2008 for the Mathematics Achievement Fund;

(z) $387,500 in each fiscal year for the Middle School Academic Center;

(aa) $381,500 in each fiscal year for the Leadership and Mentor Fund;

(ab) $3,925,300 in each fiscal year for the Professional Growth Fund;

(ac) $500,000 in each fiscal year for the Save the Children/Rural Literacy Program;

(ad) The allocations referenced in subsection (5) of this budget unit for Local School District Health Insurance;

(ae) $100,000 in each fiscal year for a specialized tutoring program for students with learning disabilities from Appalachian counties, as identified by the Appalachian Regional Commission. This program shall be located at a public institution of high education selected by the Commissioner of Education;

(af) $430,000 in fiscal year 2007-2008 for the Partnership for Student Success Program;

(ag) $5,624,000 in fiscal year 2006-2007 and $5,649,800 in fiscal year 2007-2008 for the Highly Skilled Educator Program; and

(ah) $1,504,100 in fiscal year 2006-2007 and $1,507,900 in fiscal year 2007-2008 for the Commonwealth School Improvement Fund.

(7) **Program Flexibility:** Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regard to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall continue to permit the state and local school districts additional flexibility in the

Section 19. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET; 15. HORSE RACING AUTHORITY, at page 1180, is amended to read as follows:

15. HORSE RACING AUTHORITY

	2006-07	**2007-08**
General Fund	***1,709,700***	***1,709,700***
[~~General Fund~~	~~1,709,700~~	~~509,700~~]
Restricted Funds	27,934,800	27,778,100
TOTAL	***29,644,500***	***29,487,800***
[~~TOTAL~~	~~29,644,500~~	~~28,287,800~~]

(2) **Management and Financial Audit *and Additional Funds*:** A management and financial audit shall be conducted by the Auditor of Public Accounts and shall be completed by December 31, 2006. A report shall be provided to the Interim Joint Committee on Licensing and Occupations and the racing associations licensed pursuant to KRS Chapter 230. ***In support of the Authority's recommendations and the management and financial audit, included in the above General Fund appropriation is $1,200,000 in fiscal year 2007-2008 in additional funds to enable the Authority to provide the oversight required by KRS Chapter 230.***

Section 20. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; G. FINANCE AND ADMINISTRATION CABINET; 1. GENERAL ADMINISTRATION, at page 1183, is amended to read as follows:

1. GENERAL ADMINISTRATION

	2006-07	**2007-08**
General Fund	***10,781,500***	***10,442,600***
[~~General Fund~~	~~10,281,500~~	~~10,442,600~~]
Restricted Funds	34,891,600	34,756,000
Road Fund	400,000	400,000
TOTAL	***46,073,100***	***45,598,600***
[~~TOTAL~~	~~45,573,100~~	~~45,598,600~~]

(1) **Affordable Housing Trust Fund:** Included in the above Restricted Funds appropriation is $4,300,000 in fiscal year 2006-2007 and $4,300,000 in fiscal year 2007-2008 for the Affordable Housing Trust Fund. The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to the Affordable Housing Trust Fund $500,000 in fiscal year 2006-2007 and $500,000 in fiscal year 2007-2008.

(2) **Trooper Island, Inc.:** The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to Trooper Island, Inc., $250,000 in fiscal year 2006-2007 and $250,000 in fiscal year 2007-2008.

(3) **Gubernatorial Transition:** Funds that are necessary to meet the Commonwealth's obligations for gubernatorial transition, up to but not to exceed $220,000 in fiscal year 2007-2008, shall be deemed a necessary government expense, and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(4) Retirement Systems Study: Included in the above General Fund appropriation is $500,000 in fiscal year 2006-2007 for expenses related to the Blue Ribbon Commission on Public Employees Retirement Systems. Notwithstanding KRS 45.229, any unexpended appropriation in fiscal year 2006-2007 shall not lapse but shall carry forward at the end of the fiscal year.

Section 21. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; G. FINANCE AND ADMINISTRATION CABINET; 3. DEBT SERVICE, at pages 1183 and 1184, is amended to read as follows:

3. DEBT SERVICE

	2006-07	2007-08
General Fund (Tobacco)	17,842,700	17,847,400
General Fund	*305,115,100*	*327,397,800*
[~~General Fund~~	~~328,147,100~~	~~327,397,800~~]
TOTAL	*322,957,800*	*345,245,200*
[~~TOTAL~~	~~345,989,800~~	~~345,245,200~~]

(1) **New Debt Service:** Included in the above General Fund appropriation is $3,492,000 in fiscal year 2006-2007 and $11,137,000 in fiscal year 2007-2008 to support new bonds as set forth in Part II, Capital Projects Budget, of this Act for appropriation units within the Finance and Administration Cabinet.

(2) **Tobacco Settlement Funds - Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

Section 22. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; H. CABINET FOR HEALTH AND FAMILY SERVICES; 5. PUBLIC HEALTH, at pages 1191 to 1193, is amended to read as follows:

5. PUBLIC HEALTH

	2006-07	2007-08
General Fund (Tobacco)	14,000,900	14,721,100
General Fund	*73,812,100*	*80,851,300*
[~~General Fund~~	~~70,899,700~~	~~73,823,000~~]
Restricted Funds	71,482,700	71,599,000
Federal Funds	169,426,000	169,878,400
TOTAL	*328,721,700*	*337,049,800*
[~~TOTAL~~	~~325,809,300~~	~~330,021,500~~]

(1) **Health Kentucky:** Included in the above General Fund appropriation is $150,000 in fiscal year 2006-2007 for Health Kentucky, Inc.

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $7,149,800 in fiscal year 2006-2007 and $7,599,900 in fiscal year 2007-2008 for the Health Access Nurturing Development Services Program; $1,000,000 in fiscal year 2006-2007 and $1,140,100 in fiscal year 2007-2008 for Healthy Start initiatives; $1,750,000 in each fiscal year for Universal Children's Immunizations; $400,000 in each fiscal year for the Folic Acid Program; $775,000 in each fiscal year for Early Childhood Mental Health; $210,500 in each fiscal year for Early Childhood Oral Health; $2, 215,600 in fiscal year 2006-2007 and $2,345,600 in fiscal year 2007-2008 for the Smoking Cessation Program; and $500,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program.

(3) **Governor's Council on Wellness and Physical Activity:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2006-2007 and $1,500,000 in fiscal year 2007-2008 for the Governor's Council on Wellness and Physical Activity to develop and implement a statewide fitness program available to all Kentuckians that promotes fitness and wellness for persons of all ages and fitness levels.

(4) **Local and District Health Department Payments:** The Department for Public Health shall not impose a cap or other restriction on the number or amount of services that a Local or District Health Department may provide. The Department for Public Health shall submit all requests for payment for services provided to the Department for Medicaid Services that are submitted by a Local or District Health Department.

(5) **Medicaid State Match for Preventive Services Through Local and District Health Departments:** Included in the Medicaid Benefits appropriation is the total General Fund state matching dollars required in each fiscal year to fully support preventive health services provided to Medicaid recipients through Local and District Health Departments.

(6) **Health Insurance for Local and District Health Departments:** Included in the above General Fund appropriation is $6,174,000 each fiscal year to assist the Local and District Health Departments with the required increased employer contribution for employee health insurance. These funds shall be distributed to the Local and District Health Departments at least quarterly.

(7) **Diabetes Services:** Included in the above General Fund appropriation is $2,300,000 in fiscal 2006-2007 and $3,050,000 in fiscal year 2007-2008 for continuation of base services through Local or District Health Departments.

(8) **Diabetes Research Board:** Included in the above General Fund appropriation is $200,000 in each fiscal year, which shall be allocated to the Diabetes Research Board.

(9) **Diabetes Centers of Excellence:** Included in the above General Fund appropriation is $750,000 each fiscal year to establish three regional Diabetes Centers of Excellence. Services within the Centers will be based on the number of Medicaid recipients diagnosed with diabetes within the area. These centers shall be designed to provide education, intervention therapy, and case management services and shall demonstrate the effectiveness of this intervention with outcomes and reduced Medicaid expenditures for this disease.

(10) **Local and District Health Department Infrastructure Pool:** Included in the above General Fund appropriation is $466,000 in fiscal year 2007-2008 to provide debt service to support $10,000,000 in bonds for a Local and District Health Department Infrastructure Pool to be administered by the Department for Public Health to address a portion of the construction and renovation needs of the local public health agencies as set forth in Part II, Capital Projects Budget, of this Act. The Department for Public Health shall establish an application process to participate in this pool, and that process shall require in-kind or matching funds from the local agency of not less than 25 percent of the grant requested. No individual grant from this pool shall exceed $500,000. If the amount of bond funds available from the pool is not sufficient to cover all applications, the department shall determine the distribution of pool assets.

(11) **Kentucky Prescription Drug Patient Assistance Program:** Included in the above General Fund appropriation is $125,000 in fiscal year 2006-2007 and $200,000 in fiscal year 2007-2008 to establish the Kentucky Prescription Drug Patient Assistance Program to create a statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies and to provide assistance in obtaining and completing the required documents. The Department may contract with the University of Kentucky, local health departments, or other organizations to develop a network and provide this assistance.

(a) As used in this subsection, "prescription drug patient assistance programs" means the programs offered by pharmaceutical companies under which the companies provide drugs to low-income individuals at no charge or at a substantially reduced cost. The term does not include the provision of a drug as part of a clinical trial.

(b) The Kentucky Prescription Drug Patient Assistance Program is established within the Cabinet for Health and Family Services, Department for Public Health. The purposes of the program are to:

1. Create an Internet-based statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies;

2. Provide assistance in obtaining and completing the required documents;

3. Establish guidelines related to the security and privacy of protected health information provided through the Internet-based statewide network; and

4. Explore the feasibility of the standardization of the application process for prescription drug patient assistance programs.

(c) If funds are available, the program created in paragraph (b) of this subsection shall:

1. Provide information on the eligibility guidelines and drug coverage provided though any drug assistance program offered by the cabinet;

2. Provide information on the process for applying to pharmaceutical companies for free or discounted prescription drugs;

3. Provide information to individuals, physicians, pharmacists, and pharmacies regarding eligibility for prescription drug patient assistance programs;

4. Increase awareness of the various prescription drug patient assistance programs offered by pharmaceutical companies;

5. Establish an Internet-based statewide network to provide information on prescription drug patient assistance programs;

6. Link individuals to local community resources to assist with completing required documents; and

7. Use the e-health network Web site to provide a link to information on prescription drug assistance programs, eligibility guidelines, and applications. The e-health network link shall have the capability of supporting the completion and

transmission of the applications online to health care providers for any required signatures.

(d) The cabinet may consult or contract with the University of Kentucky College of Pharmacy, University of Kentucky College of Agriculture Cooperative Extension, local health departments, libraries, the Kentucky Cancer Caucus, or other organizations to develop a network of agencies to assist individuals in accessing prescriptions through the prescription drug patient assistance programs.

(e) The cabinet may seek funding for the Internet-based statewide network created under paragraph (b) of this subsection from pharmaceutical companies or any other private entity. Any funding provided by a private entity shall be on a voluntary basis.

(f) The cabinet may promulgate an administrative regulation to establish guidelines related to the security and privacy of protected health information provided through the Internet-based statewide network created under paragraph (b) of this subsection.

(12) Area Health Education Centers: Included in the above General Fund appropriation is $1,500,000 in fiscal year 2006-2007 and $1,500,000 in fiscal year 2007-2008 to support the Area Health Education Centers. The Cabinet for Health and Family Services shall contract with the University of Louisville and the University of Kentucky to provide the required support and the amount of that contract shall be in addition to any other appropriations received by the universities and shall not become part of the universities' base budgets for purposes of the Council on Postsecondary Education funding formula.

(13) Central Kentucky Blood Center: Included in the above General Fund appropriation is $500,000 in fiscal year 2006-2007 to provide assistance toward the construction of new facilities and purchase of equipment related to blood collection and distribution.

(14) Kentucky AIDS Drug Assistance Program: Included in the above General Fund appropriation is $250,000 in each fiscal year for the Kentucky AIDS Drug Assistance Program (KADAP).

(15) Poison Control Center: Additional support of $150,000 is provided in the above General Fund appropriation in each fiscal year for the Poison Control Center.

(16) Lead Poisoning and Screening Program: Included in the above General Fund appropriation is $50,000 in each fiscal year for the Lead Poisoning and Screening Program. With these funds, the Department for Public Health shall review all federal Medicaid or Medicare compliance issues with respect to lead poisoning and screening and report its findings to the General Assembly. The report shall include a proposed plan of action to correct any deficiencies or areas where programs and services are offered or supported by the Cabinet and are not in compliance with federal requirements related to lead poisoning and screening.

(17) Osteoporosis Prevention and Education Program: Included in the above General Fund appropriation is $90,000 in each fiscal year to establish, promote, and maintain a statewide multigenerational osteoporosis prevention and education program.

(18) Human Papillomavirus Vaccine: Included in the above General Fund appropriation is $4,116,000 in fiscal year 2007-2008 to provide Human Papillomavirus vaccine on a voluntary basis to uninsured females ages 9-26 years old.

(19) Pandemic Influenza Antiviral Drugs: Included in the above General Fund appropriation is $2,912,400 in fiscal year 2006-2007 and $2,912,300 in fiscal year 2007-2008 for the purchase of Pandemic Influenza antiviral drugs.

Section 23. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; H. CABINET FOR HEALTH AND FAMILY SERVICES; 6. HEALTH POLICY, at page 1194, is amended to read as follows:

6. HEALTH POLICY

	2006-07	2007-08
General Fund	*636,000*	*4,739,300*
[~~General Fund~~	~~636,000~~	~~625,600~~]
Restricted Funds	605,700	622,400
TOTAL	*1,241,700*	*5,361,700*
[~~TOTAL~~	~~1,241,700~~	~~1,248,000~~]

(2) e-Health Initiative: Included in the above General Fund appropriation is $4,113,700 in fiscal year 2007-2008 for statewide e-Health Network improvements. The funds shall be used to develop a statewide Web portal that will deliver patient health information to physicians and other providers via the Internet and to foster health information technology adoption among providers and practitioners through e-prescribing grants and information technology assistance.

Section 24. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; H. CABINET FOR HEALTH AND FAMILY SERVICES; 10. COMMUNITY BASED SERVICES, at pages 1195 and 1196, is amended to read as follows:

10. COMMUNITY BASED SERVICES

	2005-06	2006-07	2007-08
General Fund (Tobacco)	-0-	6,970,400	7,420,400
General Fund	*-0-*	*316,033,500*	*349,229,700*

[	~~General Fund~~	~~0~~	~~316,033,500~~	~~341,729,700~~]
	Restricted Funds	***-0-***	***133,505,800***	***142,593,900***
[	~~Restricted Funds~~	~~0~~	~~133,505,800~~	~~136,301,300~~]
	Federal Funds	***4,900,300***	***511,118,200***	***525,836,000***
[	~~Federal Funds~~	~~4,900,300~~	~~511,118,200~~	~~523,230,400~~]
	TOTAL	***4,900,300***	***967,627,900***	***1,025,080,000***
[	~~TOTAL~~	~~4,900,300~~	~~967,627,900~~	~~1,008,681,800~~]

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $6,970,400 in fiscal year 2006-2007 and $7,420,400 in fiscal year 2007-2008 for the Early Childhood Development Program.

(2) **Out-of-Home Care:** Included in the above General Fund appropriation is $7,383,000 in fiscal year 2006-2007 and $22,962,600 in fiscal year 2007-2008 which is necessary to support and sustain the increased number of court-committed children in the care of the Cabinet.

(3) **Criminal Background Investigation Fee Establishment:** The Secretary of the Cabinet for Health and Family Services may promulgate administrative regulations necessary to prescribe criminal background investigation fee amounts which are reflected in the Restricted Funds appropriation above.

(4) **Department for Community Based Services Modernization:** Savings generated through efficiencies achieved from the modernization and streamlining of the Department for Community Based Services shall be redirected to other areas within the Department for Community Based Services to enhance adult protection services and family based services, to accommodate increased numbers of children in care, and to offset reductions in available federal funding.

(5) **Protection and Permanency Staff Technology Improvements:** Included in the above appropriation is $1,008,300 in General Fund support and $291,700 in Federal Funds in each fiscal year to provide technology improvements for each Adult Protection and Child Protection Services staff, including but not limited to new laptop or desktop computers. In addition, included in the above appropriation is $244,900 in General Fund support and $31,500 in Federal Funds in fiscal year 2006-2007 to provide digital cameras for each Adult Protection and Child Protection Services staff and a printer for each investigative team in each local office to assist in documenting abuse investigations.

(6) **Foster Parent and Adoption Assistance Rate Increases:** Included in the above appropriation to increase Foster Parent and Adoption Assistance daily reimbursement rates beginning on July 1, 2007, is $4,844,500 in General Fund moneys and $3,989,300 in Federal Funds for $3 per day in fiscal year 2007-2008.

(7) **Private Child Care Provider Rate Increases:** Included in the above appropriation to increase Private Child Care Provider reimbursement rates beginning on July 1, 2007, is ***$10,383,700***[~~$2,883,700~~] in General Fund moneys***, $6,292,600 in Restricted Funds,*** and ***$3,150,400***[~~$544,800~~] in Federal Funds ***to increase Private Child Placing Provider reimbursement rates by*** [~~for an additional~~] $3 per day in fiscal year 2007-2008***, to increase Private Child Caring Provider residential rates and to establish pilot programs for additional services required for children with intensive needs***.

(8) **Performance Incentives for Hard-to-Place Youth:** Included in the above appropriation is $961,200 in General Fund moneys and $181,600 in Federal Funds in fiscal year 2007-2008 to create a pool to serve hard-to-place youth by providing performance incentives to private child care providers beginning on July 1, 2007.

(9) **Foster Youth Transitional Assistance:** Included in the above General Fund appropriation is $1,000,000 in each fiscal year to provide assistance grants or vouchers to current or former foster youth ages 18 through 23. The maximum total of grants or vouchers per youth shall be $7,500 in any one fiscal year for working youth. Youth may be eligible for an additional grant totaling $2,500 per year while attending a community college or four year college or university. Grants or vouchers from this program shall be utilized by the youth for transitional assistance into independence, including but not limited to housing, clothing, transportation, tuition, medical and dental services, and other expenses for the youth for the transition that the cabinet authorizes. The Cabinet for Health and Family Services shall promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement this program no later than October 1, 2006.

(10) **Home of the Innocents:** Included in the above General Fund appropriation is $385,000 in fiscal year 2007-2008 for debt service to support new bonds for a matching grant to Home of the Innocents for Phase II of the Childrens' Village as set forth in Part II, Capital Projects Budget, of this Act. Up to $8,250,000 in funds generated by Home of the Innocents from other public and private sources shall be matched by the Commonwealth.

(11) Brooklawn Child and Family Services: Included in the above General Fund appropriation is $96,000 in fiscal year 2007-2008 for debt service to support new bonds for the Brooklawn Child and Family Services project as set forth in Part II, Capital Projects Budget, of this Act.

Section 25. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; I. JUSTICE AND PUBLIC SAFETY CABINET; 1. JUSTICE ADMINISTRATION, at page 1197, is amended to read as follows:

1. **JUSTICE ADMINISTRATION**

	2006-07	**2007-08**
General Fund (Tobacco)	1,816,800	1,923,400

General Fund	*13,796,700*	*14,327,000*
[~~General Fund~~	~~13,796,700~~	~~13,946,400~~]
Restricted Funds	3,340,100	3,840,100
Federal Funds	9,666,100	9,142,700
TOTAL	*28,619,700*	*29,233,200*
[~~TOTAL~~	~~28,619,700~~	~~28,852,600~~]

(1) **Office of Drug Control Policy:** Included in the above Restricted Funds appropriation is $1,300,000 in fiscal year 2006-2007 and $1,800,000 in fiscal year 2007-2008 for regional Drug Courts in Kentucky's coal-producing counties. ***Included in the above General Fund appropriation is $380,600 in fiscal year 2007-2008 for the Drug Interdiction Program.***

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $1,816,800 in fiscal year 2006-2007 and $1,923,400 in fiscal year 2007-2008 for the Office of Drug Control Policy.

(3) **Civil Legal Services for Indigents:** Included in the above General Fund appropriation is $1,500,000 in fiscal year 2006-2007 and $1,500,000 in fiscal year 2007-2008 to provide free legal services for indigents.

(4) **Operation Unite:** Included in the above Restricted Funds appropriation is $1,250,000 in each year of the biennium for Operation Unite.

(5) **Multijurisdictional Drug Task Forces:** Included in the above General Fund appropriation is $1,000,000 in each fiscal year to be administered by the Office of Drug Control Policy for the purpose of maintaining existing multijurisdictional drug task forces and allowing for expansion to under served and unserved areas to assist local and state law enforcement agencies in a proactive effort to combat drugs and crime.

Section 26. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; I. JUSTICE AND PUBLIC SAFETY CABINET; 3. JUVENILE JUSTICE, at pages 1197 and 1198, is amended to read as follows:

3. JUVENILE JUSTICE

	2006-07	2007-08
General Fund	*86,705,900*	*85,724,900*
[~~General Fund~~	~~84,005,900~~	~~85,724,900~~]
Restricted Funds	12,200,000	12,200,000
Federal Funds	14,720,000	14,420,000
TOTAL	*113,625,900*	*112,344,900*
[~~TOTAL~~	~~110,925,900~~	~~112,344,900~~]

(1) **Mary Kendall Homes:** Included in the above General Fund appropriation is $350,000 in fiscal year 2006-2007 and $350,000 in fiscal year 2007-2008 for the support of the Mary Kendall Homes.

(2) **Madison County Juvenile Detention Facility:** The Madison County juvenile detention facility may remain open to hold juveniles from Madison County, and the county shall receive the detention subsidy provided for in KRS 635.060(3).

(3) Operating Budget: Included in the above General Fund appropriation is $2,700,000 in fiscal year 2006-2007 to provide additional operating support.

Section 27. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; I. JUSTICE AND PUBLIC SAFETY CABINET; 4. STATE POLICE, at page 1198, is amended to read as follows:

4. STATE POLICE

	2005-06	2006-07	2007-08
General Fund	*1,301,200*	*72,995,000*	*81,323,800*
[~~General Fund~~	~~1,301,200~~	~~69,645,800~~	~~80,305,900~~]
Restricted Funds	*-0-*	*14,522,100*	*13,543,600*
[~~Restricted Funds~~	~~0~~	~~16,713,900~~	~~13,543,600~~]
Federal Funds	-0-	13,444,700	13,444,700
Road Fund	-0-	50,000,000	50,000,000
TOTAL	*1,301,200*	*150,961,800*	*158,312,100*
[~~TOTAL~~	~~1,301,200~~	~~149,804,400~~	~~157,294,200~~]

(1) **Call to Extraordinary Duty:** There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **State Police Authorized Strength:** The Kentucky State Police sworn officer authorized strength is 1,070.

(3) **State Police Personnel Training Incentive:** Included in the above Restricted Funds appropriation is sufficient funding for a $3,100 annual training incentive stipend for state troopers, arson investigators, hazardous devices investigators, and legislative security specialists.

(4) **Restricted Funds Uses:** Notwithstanding KRS 42.320(2)(h), 189A.050(3)(a), and 237.110(15), funds are included in the above Restricted Funds appropriation to maintain the operations and administration of the Kentucky State Police.

(5) **Dispatcher Training Incentive:** Included in the above General Fund appropriation is sufficient funding for a $3,100 annual training incentive stipend for dispatchers.

(6) **Statewide Mobile Data Infrastructure:** Included in the above General Fund appropriation is $1,000,000 in each fiscal year for the upkeep and maintenance of the statewide mobile data infrastructure. The Justice and Public Safety Cabinet shall allow any local or state first responding agency to use the system provided it complies with all applicable state standards for the system's uses. The Justice and Public Safety Cabinet shall not charge any first responding agency for using the system, maintenance, or any other fee related to connections, infrastructure upkeep, or maintenance

(7) Operating Budget: Included in the above General Fund appropriation is $3,349,200 in fiscal year 2006-2007 to provide additional operating support.

(8) Drug Interdiction Program: Included in the above General Fund appropriation is $1,017,900 in fiscal year 2007-2008 in additional funds for the Drug Interdiction Program.

Section 28. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; I. JUSTICE AND PUBLIC SAFETY CABINET; 5. CORRECTIONS; b. Adult Correctional Institutions, at page 1199, is amended to read as follows:

b. Adult Correctional Institutions

	2006-07	2007-08
General Fund	*242,600,900*	*239,190,200*
[~~General Fund~~	~~232,200,900~~	~~239,190,200~~]
Restricted Funds	5,435,200	5,435,200
Federal Funds	1,706,600	1,706,600
TOTAL	*249,742,700*	*246,332,000*
[~~TOTAL~~	~~239,342,700~~	~~246,332,000~~]

(1) **Education Programs at Department of Corrections Facilities:** The Kentucky Community and Technical College System (KCTCS) shall provide adult basic education classes for the Department of Corrections which are aimed toward acquiring a general educational diploma (GED) and various technical trades aimed toward providing students with certifications and/or diplomas upon completion of qualifying examinations.

(2) Operating Budget: Included in the above General Fund appropriation is $10,400,000 in fiscal year 2006-2007 to provide additional operating support.

Section 29. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; I. JUSTICE AND PUBLIC SAFETY CABINET; 6. VEHICLE ENFORCEMENT, at page 1200, is amended to read as follows:

6. VEHICLE ENFORCEMENT

	2006-07	2007-08
General Fund	*-0-*	*1,201,500*
Restricted Funds	1,666,300	1,043,500
Federal Funds	5,162,400	5,162,200
Road Fund	13,974,900	13,881,500
TOTAL	*20,803,600*	*21,288,700*
[~~TOTAL~~	~~20,803,600~~	~~20,087,200~~]

(1) **Vehicle Enforcement Officers' Training Incentive:** Included in the above Restricted Funds appropriation is sufficient funding to provide a $3,100 annual training incentive stipend for vehicle enforcement officers.

(2) Drug Interdiction Program: Included in the above General Fund appropriation is $1,201,500 in fiscal year 2007-2008 in additional funds for the Drug Interdiction Program.

Section 30. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; K. POSTSECONDARY EDUCATION; 1. COUNCIL ON POSTSECONDARY EDUCATION, at pages 1202 and 1203, is amended to read as follows:

1. COUNCIL ON POSTSECONDARY EDUCATION

	2006-07	2007-08
General Fund (Tobacco)	4,431,200	4,691,200
General Fund	*56,931,200*	*95,167,700*

[~~General Fund~~	~~56,931,200~~	~~95,120,700~~]
Restricted Funds	6,610,700	6,527,900
Federal Funds	19,099,400	19,099,400
TOTAL	*87,072,500*	*125,486,200*
[~~TOTAL~~	~~87,072,500~~	~~125,439,200~~]

(1) Debt Service: Included in the above General Fund appropriation is $27,489,000 in fiscal year 2007-2008 for debt service to support new bonds for capital projects at the colleges and universities as set forth in Part II, Capital Projects Budget, of this Act.

(2) Debt Service: Included in the above General Fund appropriation is $551,000 in fiscal year 2007-2008 for debt service to support new bonds for Research Support - Lab Renovation, Fit-up and Equipment at the University of Kentucky and the University of Louisville as set forth in Part II, Capital Projects Budget, of this Act.

(3) Debt Service: Included in the above General Fund appropriation is $917,000 in fiscal year 2007-2008 for debt service to support new bonds for Information Technology and Equipment Acquisitions as set forth in Part II, Capital Projects Budget, of this Act.

(4) **Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Adult Education and Literacy Funding Program shall not lapse and shall carry forward.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2005-2006 and fiscal year 2006-2007 to the Science and Technology Funding Program shall not lapse and shall carry forward.

(5) **Strategic Investment and Incentive Trust Funds Interest Income:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $393,900 in fiscal year 2006-2007 and $393,900 in fiscal year 2007-2008 shall be transferred from Strategic Investment and Incentive Trust Fund accounts included under these statutes to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes: $105,500 in each year of the biennium for the Minority Student College Preparation Program; $188,400 in each year of the biennium for the Southern Regional Board Doctoral Scholars Program; and $100,000 in each year of the biennium for the P-16 Council/Early Math Testing Programs.

(6) **Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(8) **Ovarian Cancer:** Notwithstanding KRS 164.476, General Fund (Tobacco) dollars in the amount of $775,000 in each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

(9) **Regional Stewardship Funding Program:** Included in the above General Fund appropriation is $1,200,000 in fiscal year 2006-2007 and $3,600,000 in fiscal year 2007-2008 for the Regional Stewardship Funding Program. The funds will be allocated among the six public comprehensive universities. Funds will be used for Regional Stewardship priorities related to collaboration with public elementary and secondary schools and regional economic development initiatives. Allocated funds will be distributed upon submission and approval of a strategic plan which determines stewardship priorities. Each institution shall submit a strategic plan for stewardship activities in priority areas. to the Council on Postsecondary Education by close of business January 1, 2007. Within 30 days of receipt of the proposals, the Council on Postsecondary Education shall advise the institutions of any non-compliance or non-conformity and shall work with the institution to help them qualify for the grant. Each institution shall submit an annual report to the Council on Postsecondary Education and to Interim Joint Appropriations and Revenue Committee by September 1 of each year. The report should include descriptions of stewardship initiatives implemented, use of funds for each initiative, and outcomes of the initiatives.

(10) **Postsecondary Education Debt:** Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has heretofore issued or caused to be issued debt obligations through a not-for-profit corporation or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to make debt obligations issued by university pursuant to this authorization shall be subject to interception of state appropriated funds pursuant to KRS 164A.608.

(11) **Postsecondary Education Employment Status:** Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined in KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

Section. 31. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; K. POSTSECONDARY EDUCATION; 2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY, at pages 1203 and 1204, is amended to read as follows:

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2006-07	2007-08
General Fund (Tobacco)	800,000	900,000
General Fund	*164,624,300*	*199,304,900*
[~~General Fund~~	~~164,624,300~~	~~174,304,900~~]
Restricted Funds	39,044,500	36,219,300
Federal Funds	1,726,000	1,726,000
TOTAL	*206,194,800*	*238,150,200*
[~~TOTAL~~	~~206,194,800~~	~~213,150,200~~]

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $58,427,800 in fiscal year 2006-2007 and *$78,462,000*[~~$60,462,000~~] in fiscal year 2007-2008 for the College Access Program.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $30,270,100 in fiscal year 2006-2007 and *$34,476,200*[~~$32,476,200~~] in fiscal year 2007-2008 for the Kentucky Tuition Grant Program.

(3) **Teacher Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $1,777,100 in fiscal year 2006-2007 and $1,777,100 in fiscal year 2007-2008 for the Teacher Scholarship Program.

(4) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $800,000 in fiscal year 2006-2007 and $900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

(5) **Kentucky National Guard Tuition Assistance Program:** Included in the above Restricted Funds appropriation is $4,500,000 in fiscal year 2006-2007 and $5,220,000 in fiscal year 2007-2008 for the Kentucky National Guard Tuition Assistance Program.

(6) **Kentucky Education Excellence Scholarships (KEES):** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $73,125,000 in fiscal year 2006-2007 and $77,565,300 in fiscal year 2007-2008 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation for KEES is $14,909,100 in fiscal year 2006-2007 and $11,345,800 in fiscal year 2007-2008.

(7) **Pharmacy Scholarship Program:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for the Pharmacy Scholarship Program as set forth in Part XXIV, Pharmacy Scholarship Program, of this Act.

(9) Student Financial Aid: Included in the above General Fund appropriation is $5,000,000 in fiscal year 2007-2008 for a new, need-based student financial aid program, targeted to adult, part-time students with some college credit but no baccalaureate degree.

Section 32. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; K. POSTSECONDARY EDUCATION; 11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM, at pages 1207 and 1208, is amended to read as follows:

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2006-07	2007-08
General Fund	*212,926,800*	*227,302,300*
[~~General Fund~~	~~212,926,800~~	~~226,331,100~~]
Restricted Funds	273,623,700	292,823,500
Federal Funds	144,916,100	153,070,400
TOTAL	*631,466,600*	*673,196,200*
[~~TOTAL~~	~~631,466,600~~	~~672,225,000~~]

(1) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is $28,330,500 in fiscal year 2006-2007 and $29,351,800 in fiscal year 2007-2008 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be $3,100 in fiscal year 2006-2007 and $3,100 in fiscal year 2007-2008. Notwithstanding KRS 95A.200 to 95A.300, $1,000,000 in fiscal year 2006-2007 and $1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be expended on firefighter training, equipment, and support activities. Notwithstanding KRS 95A.200 to 95A.300, an additional $750,000 in fiscal year 2006-2007 and $1,000,000 in fiscal year 2007-2008 from the Firefighters Foundation Program Fund is authorized to be spent on a comprehensive physical aptitude test program for firefighters.

(2) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.200 to 95A.265, $500,000 in Restricted Funds is provided each fiscal year of the 2006-2008 fiscal biennium for the Firefighters Training Center Fund.

(3) **Health Care Coverage:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for health care coverage for selected Kentucky Community and Technical College System employees. The University of Kentucky

may recover up to $1,000,000 in fiscal year 2007-2008 from the Kentucky Community and Technical College System for additional costs associated with providing health insurance coverage to those KCTCS employees who remain in the UK personnel system. Such recovery is allowed only to the extent that UK can provide documented proof that the cost of providing health insurance coverage for those KCTCS employees exceeds collected premiums minus deductions for discounts and rebates.

(4) **Salary Increases:** It is the intent of General Assembly that employees of KCTCS who are in the UK personnel system shall be treated the same with respect to compensation plans and salary increases implemented by KCTCS as all other employees of KCTCS; specifically, KCTCS shall not utilize the practice of providing lower salary increases to KCTCS employees who are in the UK personnel system by offsetting the money paid to UK for the cost of providing health insurance to these employees.

KCTCS shall make no distinction in compensation plans or salary increases among its employees based upon the personnel system to which they belong, except that KCTCS may make up the lower salary increases given in the past to those employees of KCTCS in the UK personnel system which were based upon reimbursing UK for the cost of providing health insurance.

(5) **Family Life Skills Center:** The Kentucky Community and Technical College System is encouraged to provide funds for the Family Life Skills Center at Hazard Community and Technical College - Lees College Campus.

(7) **Education Programs at Department of Corrections Facilities:** Included in the above General Fund appropriation is $5,800,000 in fiscal year 2006-2007 and $5,800,000 in fiscal year 2007-2008 for education programs at Department of Corrections Facilities. The Kentucky Community and Technical College System (KCTCS) shall continue to be the provider of educational services to the Department of Corrections (DOC). These services include adult basic education classes aimed toward acquiring a general education diploma (GED) and various technical trades aimed toward providing students with certifications and/or diplomas upon completing qualified examinations. The faculty and related staff shall remain employees of KCTCS. KCTCS shall determine curriculum which will facilitate transferability of credits to all Kentucky public postsecondary institutions. KCTCS faculty and related staff shall abide by all rules and regulations of the DOC to ensure that DOC's accreditation requirements and rehabilitation goals are met.

(8) **Maintenance and Operations of New Facilities:** Included in the above General Fund appropriation is $267,800 in fiscal year 2006-2007 for maintenance and operation of new facilities coming on-line.

(9) **North American Racing Academy:** Included in the above General Fund appropriation is $300,000 in fiscal year 2006-2007 for personnel to develop the North American Racing Academy.

(10) Jefferson Community and Technical College: Included in the above General Fund appropriation is $971,200 in fiscal year 2007-2008 to be used for the Jefferson Community and Technical College Truck Driving Program.

Section 33. 2006 Kentucky Acts Chapter 252, PART I, OPERATING BUDGET; after L. TRANSPORTATION CABINET TOTALS; at page 1215, is amended to include the following:

M. STATEWIDE

Budget Units

1. BUDGET RESERVE TRUST FUND

	2006-07	***2007-08***
General Fund	***151,757,500***	***-0-***

Section 34. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; (5) Appropriations For Projects Not Line-Itemized, at pages 1216 and 1217, is amended to read as follows:

(5) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: ***Community Economic Growth Program;*** Kentucky Infrastructure Authority Water and Sewer Projects; Kentucky River Authority Locks and Dams Renovation and Maintenance Pool; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Community Development projects; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; ***the Capital Renewal and Maintenance Bond*** Pool; Heritage Land Conservation projects; Flood Control projects; the Parks Renovation Pool; Parks Development Pool; the Statewide Repair, Maintenance, and Replacement Pool; the Education Technology Pool; ***the Postsecondary Education Institutions Technology and Equipment Pool; the Postsecondary Education Institutions Research Support/Lab Renovation and Equipment Pool;*** the Local District Health Departments Construction Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over ***$600,000***~~[$400,000]~~ and equipment estimated to cost over ***$200,000***~~[$100,000]~~ shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

Section 35. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; A. GENERAL GOVERNMENT; 1. VETERANS' AFFAIRS, at page 1217, is amended to read as follows:

		2006-07	2007-08
1.	**VETERANS' AFFAIRS**		
001.	Construct State Veterans Cemetery - Northeast Kentucky (Greenup County)		
	General Fund	395,000	-0-
	Federal Funds	-0-	8,300,000
	TOTAL	395,000	8,300,000
002.	Maintenance Pool		
	Investment Income	100,000	100,000
003.	Construct State Veterans Cemetery - Southeast Kentucky (Leslie County)		
	General Fund	-0-	200,000
	Federal Funds	-0-	6,000,000
	TOTAL	-0-	6,200,000
004.	Western Kentucky Veterans' Center - Alzheimer's/General Care Unit		
	Bond Funds	***6,006,000***	***-0-***
[	~~Bond Funds~~	~~1,757,000~~	~~-0-~~]

Section 36. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; A. GENERAL GOVERNMENT; 2. KENTUCKY INFRASTRUCTURE AUTHORITY, at pages 1217 and 1218, is amended to read as follows:

2.	**KENTUCKY INFRASTRUCTURE AUTHORITY**		
001.	KIA Fund F - Drinking Water Revolving Loan Program		
	Federal Funds	20,000,000	-0-
	Bond Funds	4,000,000	-0-
	TOTAL	24,000,000	-0-
002.	KIA Fund A - Federally Assisted Wastewater Program		
	Federal Funds	20,000,000	-0-
	Bond Funds	4,000,000	-0-
	TOTAL	24,000,000	-0-
003.	Infrastructure for Economic Development Fund for Non-Coal Producing Counties		
	Bond Funds	150,000,000	-0-
004.	Infrastructure for Economic Development Fund for Coal-Producing Counties		
	Bond Funds	100,000,000	-0-

(1) **Expenditure of Loan Repayments Cash Balances:** The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

005.	City of Hindman - Water Line Improvements		
	Reauthorization and Reallocation ($88,888)		

The above project is authorized from a reallocation from the Knott County Water and Sewer District - Ball Creek Water Project and Others in 2005 HJR 92 (2005 Ky. Acts ch. 170, Vol. Ia, Part II, Infrastructure for Economic Development Fund for Coal-Producing Counties, p. 1830).

006.	***Fund B Loan Program***		
	Bond Funds	***25,000,000***	***-0-***

Section 37. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; A. GENERAL GOVERNMENT; 3. MILITARY AFFAIRS, at page 1218, is amended to read as follows:

3.	**MILITARY AFFAIRS**		
001.	Construct Joint Use Readiness Center Paducah		
	Federal Funds	11,400,000	-0-
002.	Bluegrass Station Facility Maintenance Pool		
	Restricted Funds	2,500,000	2,500,000

003.	Acquire Land for Wendell H. Ford Regional Training Center		
	Bond Funds	4,500,000	-0-
004.	Upgrade DMA Statewide Radio System - Additional		
	Federal Funds	3,000,000	-0-
005.	Maintenance Pool		
	Investment Income	860,000	860,000
006.	Construct Warehouse - Bluegrass Station		
	Restricted Funds	375,000	-0-
	Federal Funds	1,125,000	-0-
	TOTAL	1,500,000	-0-
007.	Aircraft Maintenance Pool		
	Investment Income	500,000	500,000
008.	***Bluegrass Station Infrastructure Improvements***		
	Agency Bonds	***4,100,000***	***-0-***
009.	***Bluegrass Station - New Warehouse***		
	Agency Bonds	***1,800,000***	***-0-***

Section 38. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; A. GENERAL GOVERNMENT; 4. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT, at pages 1218 and 1219, is amended to read as follows:

4. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

001.	Owenton/Owen County Natural Gas Line Project		
	Bond Funds	5,000,000	-0-
002.	Flood Control Matching Fund/State Owned Dam Repair		
	General Fund	800,000	800,000
	Restricted Funds	700,000	700,000
	Investment Income	500,000	500,000
	TOTAL	2,000,000	2,000,000
003.	Warren County Fiscal Court - Transpark - Rail Spur		
	Bond Funds	4,500,000	-0-
004.	Leslie County Fiscal Court - Leslie County Six Volunteer Fire Departments - Equipment and Operations		
	Reauthorization and Reallocation ($120,000 Restricted Funds)		

The above project is authorized from a reallocation from the Leslie County Fiscal Court - Equipment and Operations project in 2005 Ky. Acts ch., 173, Part I, A., 9.,b.

005.	Community Development Fund Projects		
	General Fund	20,650,800	8,453,000
	Bond Funds	75,658,000	-0-
	TOTAL	96,308,000	8,453,000
006.	***Louisville Zoo - Glacier Run***		
	Bond Funds	***6,000,000***	***-0-***
007.	Franklin County – Lease		
008.	***Community Economic Growth Program***		
	Bond Funds	***20,000,000***	***-0-***
009.	***Muhammad Ali Center***		
	Bond Funds	***3,000,000***	***-0-***

Section 39. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; A. GENERAL GOVERNMENT; 8. AGRICULTURE, at page 1219, is amended to read as follows:

8. AGRICULTURE

001. PACE - Agriculture Enhancement Fund - Additional

	Federal Funds	3,600,000	3,600,000
002.	Large Scale Test Truck		
	Capital Construction Surplus	175,000	-0-
003.	Forage Testing Van		
	Capital Construction Surplus	115,000	-0-
004.	Fuels/Pesticides Testing Lab		
	General Fund	-0-	1,650,000
005.	***Animal Shelters***		
	Bond Funds	***2,500,000***	***-0-)***
006.	Franklin County - Lease		

Section 40. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; A. GENERAL GOVERNMENT; 11. KENTUCKY RIVER AUTHORITY, at page 1220, is amended to read as follows:

11. KENTUCKY RIVER AUTHORITY

001.	Kentucky River Locks and Dams Maintenance and Renovations Pool		
	Bond Funds	***17,500,000***	***-0-***
	Agency Bond Funds	***23,600,000***	***-0-***
[	~~Agency Bond Funds~~	~~33,200,000~~	~~-0-~~]
	Restricted Funds	4,600,000	-0-
	TOTAL	***45,700,000***	***-0-***
[	~~TOTAL~~	~~55,300,000~~	~~-0-~~]

Section 41. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; B. COMMERCE CABINET; 1. PARKS, at page 1220, is amended to read as follows:

1. PARKS

001.	***Parks Renovation Pool***		
	Bond Funds	***8,000,000***	***-0-***

(1) Permitted Use of Funds: These Bond Funds may be used for any Department of Parks or Kentucky Horse Park Commission facility owned, leased, or maintained by the Commonwealth.

002.	Parks Development Pool		
	Bond Funds	60,000,000	-0-
003.	Construct Convention Center E. P. "Tom" Sawyer		
	Other Funds	1,000,000	-0-
004.	Maintenance Pool		
	Investment Income	2,740,000	3,990,000

Section 42. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; B. COMMERCE CABINET; 2. HORSE PARK COMMISSION, at pages 1220 and 1221, is amended to read as follows:

2. HORSE PARK COMMISSION

001.	Construct New Indoor Arena		
	Bond Funds	***40,500,000***	***-0-***
[	~~Bond Funds~~	~~36,500,000~~	~~-0-~~]
	Other Funds	6,180,000	-0-
	TOTAL	***46,680,000***	***-0-***
[	~~TOTAL~~	~~42,680,000~~	~~-0-~~]
002.	Construct Hotel/Conference Center		
	Other Funds	27,500,000	-0-
003.	Maintenance Pool		
	Investment Income	575,000	575,000
004.	Construct Permanent Seating Stadium Jump Area		
	Reauthorization ($1,000,000 Other Funds)		
005.	***Construct Outdoor Stadium***		

	Bond Funds	***24,000,000***	***-0-***
006.	***Horse Park Roads and Pedways***		
	Road Fund	***-0-***	***10,285,000***

Section 43. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; B. COMMERCE CABINET; 3.STATE FAIR BOARD, at page 1221, is amended to read as follows:

3. STATE FAIR BOARD

001.	Replace Roof for the Pavilion		
	Bond Funds	1,250,000	-0-
002.	Maintenance Pool		
	Restricted Funds	1,500,000	1,500,000
003.	***Upgrade HVAC Systems***		
	Bond Funds	***2,000,000***	***-0-***
004.	Replace Paving from Gate 1 to Gate 2		
	Reauthorization ($900,000 Restricted Funds)		
005.	Renovate KICC Pedway System		
	Reauthorization ($1,000,000 Restricted Funds)		
006.	Repave Parking Lots E, J, and Ashton - Adair		
	Reauthorization ($1,330,000 Restricted Funds)		

Section 44. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; C. ECONOMIC DEVELOPMENT CABINET; 2. FINANCIAL INCENTIVES, at page 1222, is amended to read as follows:

2. FINANCIAL INCENTIVES

001.	Economic Development Bond Pool		
	Bond Funds	***27,500,000***	***-0-***
[	~~Bond Funds~~	~~17,500,000~~	~~0~~]

(1) Purchase Regional Industrial Park: Included in the above appropriation is $2,500,000 for the Purchase Regional Industrial Park Authority to support land use and development at the Purchase Regional Industrial Park as approved by the Kentucky Economic Development Finance Authority.

Section 45. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; D. DEPARTMENT OF EDUCTION; 1. OPERATION AND SUPPORT SERVICES, at pages 1222 and 1223, is amended to read as follows:

1. OPERATION AND SUPPORT SERVICES

001.	Kentucky Education Network		
	Bond Funds	8,900,000	-0-

The Secretary of the Education Cabinet, the Commissioner of the Department of Education, the President of the Council on Postsecondary Education, the Secretary of the Finance and Administration Cabinet, and the Executive Director of the Education Professional Standards Board shall submit a coordinated implementation plan with timelines and regular progress reports to the Interim Joint Committee on Appropriations and Revenue. All expenditures shall require the prior approval of the Secretary of the Finance and Administration Cabinet.

002.	***On-Line Assessment***		
	Bond Funds	***15,000,000***	***-0-***
003.	***Knowledge Management Portal***		
	Bond Funds	***3,250,000***	***-0-***
004.	Student Information System		
	Bond Funds	10,000,000	-0-
005.	Maintenance Pool		
	Investment Income	675,000	675,000
006.	Rockcastle County Vocational and Technical Center		
	Bond Funds	1,500,000	-0-
007.	Education Technology Pool		
	Bond Funds	50,000,000	-0-
008.	Letcher County Central Vocational Center		
	Bond Funds	2,000,000	-0-

Section 46. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; H. HEALTH AND FAMILY SERVICES CABINET; 4. COMMUNITY BASED SERVICES, at page 1228, is amended to read as follows:

4. COMMUNITY BASED SERVICES

001.	Boone County - Lease		
002.	Boyd County - Lease		
003.	Johnson County - Lease		
004.	Fayette County - Lease - Centre Parkway		
005.	Shelby County - Lease		
006.	Jefferson County - Lease		
007.	Fayette County - Lease		
008.	Kenton County - Lease - Madison Avenue		
009.	Hardin County - Lease		
010.	Campbell County - Lease		
011.	Warren County - Lease		
012.	Kenton County - Lease		
013.	Home of the Innocents - Phase II Children's Village		
	Bond Funds	8,250,000	-0-

(1) **Bond Issuance Contingency:** The amount of bond issuance shall be contingent upon equalizing matching funds being provided from other fund sources.

014.	***Brooklawn Child and Family Services***		
	Bond Funds	***2,000,000***	***-0-***

(1) Brooklawn Child and Family Services: The above appropriation shall be used to purchase, build, renovate or make improvements for residential housing of children who are in or have completed the treatment program.

Section 47. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; at pages 1229 and 1230, is amended to read as follows:

(1) Postsecondary Education Capital Renewal and Maintenance Pool Match: The Capital Renewal and Maintenance Pool provides funding for individual projects at Kentucky's public postsecondary institutions to upgrade and replace building systems and infrastructure in education and general facilities. The individual projects funded from this pool shall be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified by the Council. The Council shall determine the allocation of the Capital Renewal and Maintenance Pool among the postsecondary education institutions and report that allocation to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission's Capital Projects and Bond Oversight Committee. The Bond Funds in this pool shall be matched with the institutions' Restricted Funds at varying levels as determined by the Council on Postsecondary Education.

Budget Units		**2005-06**	**2006-07**	**2007-08**
1.	**COUNCIL ON POSTSECONDARY EDUCATION**			
001.	***Capital Renewal and Maintenance Pool***			
	Bond Funds	***-0-***	***13,927,000***	***-0-***
002.	Purchase KYVU/KYVL Electronic Data Bases			
	Restricted Funds	-0-	7,000,000	-0-
003.	Purchase KYVL Integrated Library System			
	Restricted Funds	-0-	4,000,000	-0-
004.	Purchase Interactive Television (ITV) System			
	Restricted Funds	-0-	800,000	-0-
005.	Purchase KYVU Centralized Hosting License			
	Restricted Funds	-0-	750,000	-0-
006.	Purchase KYVL Interlibrary Loan System			
	Restricted Funds	-0-	700,000	-0-
007.	Purchase KYVL Reference Desk Software			
	Restricted Funds	-0-	600,000	-0-
008.	KYVU/KYVL Statewide Software Licenses Pool			

	Restricted Funds	-0-	500,000	-0-
009.	Purchase Postsecondary Education Video Conference System			
	Restricted Funds	-0-	500,000	-0-
010.	Install Website ADA Compliance Restructuring			
	Restricted Funds	-0-	500,000	-0-
011.	Franklin County - Lease			
012.	***Information Technology and Equipment Acquisitions***			
	Bond Funds	***-0-***	***10,000,000***	***-0-***
013.	***Research Support/Lab Renovation and Equipment***			
	Bond Funds	***-0-***	***6,000,000***	***-0-***

Section 48. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 3. EASTERN KENTUCKY UNIVERSITY, at page 1230, is amended to read as follows:

3. EASTERN KENTUCKY UNIVERSITY

001.	***Construct New Student Housing***			
	Agency Bonds	***-0-***	***10,520,000***	***-0-***
002.	***EKU-UK Dairy Research Project (Meadowbrook Farm)***			
	Bond Funds	***-0-***	***5,300,000***	***-0***
003.	Arlington Renovation and Addition			
	Other Funds	-0-	4,000,000	-0-
004.	Library Studio for Academic Creativity			
	Restricted Funds	-0-	-0-	1,500,000
005.	Expand and Renovate Presnell Building - Additional Reauthorization ($1,000,000 Restricted Funds)			
	Restricted Funds	-0-	1,200,000	-0-

Section 49. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 4. KENTUCKY STATE UNIVERSITY, at pages 1231 and 1232, is amended to read as follows:

4. KENTUCKY STATE UNIVERSITY

001.	Construct New Young Hall - Phase II			
	Other Funds	-0-	-0-	6,500,000
002.	Construct Center for Training & Learning			
	Federal Funds	-0-	2,755,000	-0-
003.	Upgrade Online Infrastructure			
	Restricted Funds	-0-	2,190,000	-0-
004.	Create Center for Families and Children			
	Federal Funds	-0-	2,022,000	-0-
005.	Acquire Property Related to Master Plan			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	1,000,000	-0-
	TOTAL	-0-	2,000,000	-0-
006.	Roof Repair & Replacement Pool			
	Restricted Funds	-0-	1,520,000	-0-
	Federal Funds	-0-	400,000	-0-
	TOTAL	-0-	1,920,000	-0-
007.	Capital Renewal Pool			
	Restricted Funds	-0-	1,899,000	-0-
008.	Renovate Jackson Hall			
	Restricted Funds	-0-	140,000	-0-
	Federal Funds	-0-	1,488,000	-0-
	TOTAL	-0-	1,628,000	-0-

009.	Upgrade Online Security			
	Restricted Funds	-0-	1,500,000	-0-
010.	Expand Aquaculture Pond Facilities			
	Federal Funds	-0-	1,430,000	-0-
011.	Construct Aquaculture Production Tech Lab			
	Restricted Funds	-0-	1,000,000	-0-
	Federal Funds	-0-	200,000	-0-
	TOTAL	-0-	1,200,000	-0-
012.	Life Safety Upgrade Pool			
	Restricted Funds	-0-	1,040,000	-0-
013.	Replace Online Voice - Centrex			
	Restricted Funds	-0-	587,000	-0-
014.	Guaranteed Energy Savings Performance Contracts			
015.	***Expand and Renovate Betty White Nursing Building***			
	Bond Funds	***-0-***	***4,900,000***	***-0-***
016.	Construct New Residence Hall			
	Other Funds	-0-	20,000,000	-0-
017.	Renovate Hathaway Hall, Phase II			
	Bond Funds	-0-	4,920,000	-0-
018.	***Construct Parking Structure***			
	Agency Bonds	***-0-***	***7,000,000***	***-0-***

Section 50. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 5. MOREHEAD STATE UNIVERSITY, at pages 1232 to 1234, is amended to read as follows:

5. MOREHEAD STATE UNIVERSITY

001.	Construct Center for Health, Education, and Research			
	Bond Funds	-0-	23,000,000	-0-
002.	Renovate Jayne Stadium			
	Restricted Funds	-0-	8,400,000	-0-
003.	Construct East Kentucky Animal Science Center			
	Federal Funds	-0-	8,000,000	-0-
004.	Major Item of Equipment Pool			
	Restricted Funds	-0-	2,752,000	3,400,000
005.	Construct Kentucky Mountain Crafts Center			
	Restricted Funds	-0-	5,434,000	-0-
006.	Construct Law Enforcement Complex			
	Federal Funds	-0-	5,215,000	-0-
007.	Upgrade Instructional PCs/LANS/Peripherals			
	Restricted Funds	-0-	5,000,000	-0-
008.	Enhance Network/Infrastructure Resources			
	Restricted Funds	-0-	4,750,000	-0-
009.	Renovate McClure Pool Area			
	Restricted Funds	-0-	4,715,000	-0-
010.	Renovate John Sonny Allen Field			
	Restricted Funds	-0-	4,166,000	-0-
011.	Replace Power Plant Pollution Control System			
	Restricted Funds	-0-	3,540,000	-0-
012.	Capital Renewal Pool - E&G			
	Restricted Funds	-0-	3,480,000	-0-
013.	Renovate Button Auditorium			

	Restricted Funds	-0-	3,000,000	-0-
014.	Upgrade Administrative Office Systems			
	Restricted Funds	-0-	2,500,000	-0-
015.	Acquire Land Related to Master Plan			
	Restricted Funds	-0-	2,000,000	-0-
016.	Construct Softball Facility/Lighting Project			
	Restricted Funds	-0-	1,700,000	-0-
017.	Comply with ADA - E&G			
	Restricted Funds	-0-	850,000	850,000
018.	Capital Renewal Pool -Auxiliary			
	Restricted Funds	-0-	1,618,000	-0-
019.	Upgrade and Expand Distance Learning			
	Restricted Funds	-0-	1,500,000	-0-
020.	Expand Student Wellness Center			
	Restricted Funds	-0-	1,200,000	-0-
021.	Comply with ADA - Auxiliary			
	Restricted Funds	-0-	600,000	600,000
022.	Replace Boiler Tubes			
	Restricted Funds	-0-	800,000	-0-
023.	Reconstruct Central Campus			
	Restricted Funds	-0-	780,000	-0-
024.	Enhance Library Automation Resources			
	Restricted Funds	-0-	670,000	-0-
025.	Expand Life Safety Claypool-Young Building			
	Restricted Funds	-0-	600,000	-0-
026.	Renovate Molecular Biology Student Lab			
	Restricted Funds	-0-	474,000	-0-
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Equine Hospital			
	Restricted		1,069,000	-0-
029.	***Construct Student Recreation Center***			
	Agency Bonds	***-0-***	***17,000,000***	***-0-***
030.	***Renovate Student Housing Facilities***			
	Agency Bonds	***-0-***	***10,000,000***	***-0-***
031.	Space Science Center - Completion			
	Bond Funds	-0-	3,400,000	-0-
032.	***Construct Business Continuance Datacenter***			
	Bond Funds	***-0-***	***2,500,000***	***-0-***

Section 51. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 6. MURRAY STATE UNIVERSITY, at pages 1234 and 1235, is amended to read as follows:

6. MURRAY STATE UNIVERSITY

001.	New Residential College - Richmond Hall			
	Agency Bonds	-0-	13,077,000	-0-
002.	Capital Renewal E&G Pool			
	Restricted Funds	-0-	12,457,000	-0-
003.	Administrative Enterprise Resource Planning System			
	Restricted Funds	-0-	8,000,000	-0-
004.	Capital Renewal H&D Pool			
	Restricted Funds	-0-	5,445,000	-0-

005.	Renovate Pogue Library			
	Restricted Funds	-0-	4,000,000	-0-
006.	Renovate Ordway Hall			
	Restricted Funds	-0-	3,962,000	-0-
007.	ADA Compliance E&G Pool			
	Restricted Funds	-0-	3,092,000	-0-
008.	Centralized Technology Refresh Program			
	Restricted Funds	-0-	2,600,000	-0-
009.	Telephone Switching System - Additional Reauthorization ($1,525,000 Restricted Funds)			
	Restricted Funds	-0-	1,975,000	-0-
010.	Renovate White Hall HVAC System			
	Restricted Funds	-0-	1,000,000	-0-
011.	Campus Backbone 10 GigE Upgrade			
	Restricted Funds	-0-	775,000	-0-
012.	Construct Open-Sided Stall Barn at Expo Center			
	Restricted Funds	-0-	770,000	-0-
013.	ADA Compliance H&D Pool			
	Restricted Funds	-0-	615,000	-0-
014.	Life Safety Projects E&G Pool			
	Restricted Funds	-0-	590,000	-0-
015.	Central Processing Computer System Upgrade			
	Restricted Funds	-0-	522,000	-0-
016.	Online Centralized Data Access/Warehouse			
	Restricted Funds	-0-	520,000	-0-
017.	Acquire Land			
	Restricted Funds	-0-	501,000	-0-
018.	Renovate A. Carman Pavilion - Phase II			
	Restricted Funds	-0-	500,000	-0-
019.	Renovate Wells Hall Interior			
	Restricted Funds	-0-	500,000	-0-
020.	Construct Public Safety Building- Additional Reauthorization ($1,500,000 Restricted Funds)			
	Restricted Funds	-0-	500,000	-0-
021.	Life Safety Projects H&D Pool			
	Restricted Funds	-0-	300,000	-0-
022.	Abate Asbestos H&D Pool			
	Restricted Funds	-0-	276,000	-0-
023.	Guaranteed Energy Savings Performance Contracts			
024.	Construct New Science Complex - Phase III			
	Bond Funds	-0-	15,000,000	-0-
025.	***Replace Franklin Hall***			
	Agency Bonds	***-0-***	***13,077,000***	***-0-***
026.	***Renovate Curris Center T-Room***			
	Agency Bonds	***-0-***	***750,000***	***-0-***
027.	***Planning and Design – New Breathitt Veterinary Center – Hopkinsville***			
	Bond Funds	***-0-***	***1,000,000***	***-0-***

Section 52. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 7. NORTHERN KENTUCKY UNIVERSITY, at pages 1235 to 1237, is amended to read as follows:

7. NORTHERN KENTUCKY UNIVERSITY

001.	Construct New Student Union			
	Agency Bonds	-0-	17,360,000	-0-
002.	Acquire New Residence Hall			
	Restricted Funds	-0-	10,000,000	-0-
003.	Construct Alumni Welcome Center			
	Other Funds	-0-	7,800,000	-0-
004.	Relocate Master Plan Infrastructure			
	Restricted Funds	-0-	6,130,000	-0-
005.	Acquire Land/Campus Master Plan			
	Restricted Funds	-0-	6,000,000	-0-
006.	Construct Track and Field Stadium			
	Other Funds	-0-	5,500,000	-0-
007.	Construct Soccer Stadium			
	Restricted Funds	-0-	5,500,000	-0-
008.	Major Item of Equipment Pool			
	Restricted Funds	-0-	5,410,000	-0-
009.	Construct Central Plaza Phase II			
	Restricted Funds	-0-	4,900,000	-0-
010.	Replace Power Distribution Infrastructure			
	Restricted Funds	-0-	4,800,000	-0-
011.	Repair Structural Floor Heaving/E&G Buildings			
	Restricted Funds	-0-	4,000,000	-0-
012.	Enhance Instructional Information Technology			
	Restricted Funds	-0-	3,800,000	-0-
013.	E&G Minor Projects Pool			
	Restricted Funds	-0-	3,200,000	-0-
014.	Enhance Information Technology Infrastructure			
	Restricted Funds	-0-	2,900,000	-0-
015.	Housing/Minor Projects Pool			
	Restricted Funds	-0-	2,200,000	-0-
016.	Replace Administrative Application System Phase II			
	Restricted Funds	-0-	2,000,000	-0-
017.	Construct Intramural Fields			
	Restricted Funds	-0-	1,900,000	-0-
018.	Replace E&G Fire Alarm Systems			
	Restricted Funds	-0-	1,400,000	-0-
019.	Relocate Early Childcare Center			
	Restricted Funds	-0-	1,000,000	-0-
020.	Replace Elevators Landrum Hall/Lucas Administrative Center			
	Restricted Funds	-0-	990,000	-0-
021.	Replace Air Handlers			
	Restricted Funds	-0-	980,000	-0-
022.	Restore Albright Health Center Roof			
	Restricted Funds	-0-	680,000	-0-
023.	Replace Business, Education, and Psychology Center Roof			
	Restricted Funds	-0-	680,000	-0-
024.	Enhance Softball Field			

	Restricted Funds	-0-	600,000	-0-
025.	Renovate University Center			
	Restricted Funds	-0-	600,000	-0-
026.	Kenton County - Lease			
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Center for Informatics			
	Bond Funds	-0-	35,500,000	-0-
029.	Construct Parking Garage #3			
	Agency Bonds	-0-	15,400,000	-0-
030.	***Acquire and Renovate New Residence Halls***			
	Agency Bonds	***-0-***	***23,500,000***	***-0-***

Section 53. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 8. UNIVERSITY OF KENTUCKY, at page 1237, is amended to read as follows:

8. UNIVERSITY OF KENTUCKY

001.	Construct Patient Care Facility Phase II - Hospital			
	Restricted Funds	-0-	25,000,000	-0-
	Agency Bonds	-0-	150,000,000	-0-
	TOTAL	-0-	175,000,000	-0-
002.	Construct Biological/Pharmaceutical Complex - Phase II			
	Bond Funds	-0-	79,892,000	-0-
003.	Major Item of Equipment Pool			
	Restricted Funds	-0-	195,164,000	-0-
	Federal Funds	-0-	3,100,000	-0-
	TOTAL	-0-	198,264,000	-0-
004.	Capital Renewal Pool Phase I			
	Restricted Funds	-0-	31,607,000	-0-
005.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital			
	Restricted Funds	-0-	24,271,000	-0-
006.	Lease-Purchase ERP System - Phase II			
	Restricted Funds	-0-	20,000,000	-0-
007.	Expand Ambulatory Care Facilities - Hospital			
	Restricted Funds	-0-	20,000,000	-0-
008.	Construct Primary Care Center II - Hospital			
	Restricted Funds	-0-	17,237,000	-0-
009.	Replace Air Handling Unit I - Hospital			
	Restricted Funds	-0-	16,165,000	-0-
010.	Construct Patient Care Facility II - Hospital			
	Restricted Funds	-0-	15,909,000	-0-
011.	Acquire Land			
	Restricted Funds	-0-	15,000,000	-0-
012.	Construct Facilities Support Building - Hospital			
	Restricted Funds	-0-	14,728,000	-0-
013.	Medicine/Dentistry Building - Design			
	Restricted Funds	-0-	14,000,000	-0-
014.	***Expand and Upgrade LDDC Phase II***			
	Bond Funds	***-0-***	***13,500,000***	***-0-***

Section 54. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 8. UNIVERSITY OF KENTUCKY, at pages 1251 and 1252, is amended to read as follows:

Restricted Funds	-0-	3,310,000	-0-

	TOTAL	-0-	4,310,000	-0-
256.	Renovate Memorial Coliseum			
	Other Funds	-0-	4,731,000	-0-
257.	Construct Commonwealth Stadium Suite Addition			
	Other Funds	-0-	2,300,000	-0-
258.	Construct New Alumni Center			
	Other Funds	-0-	17,344,000	-0-
259.	Gluck Equine Research Center – Phase II – Design			
	Other Funds	-0-	1,500,000	-0-
	Restricted Funds	-0-	2,000,000	-0-
	TOTAL	-0-	3,500,000	-0-
260.	KY Transportation Center Building – Phase I – Design			
	Other Funds	-0-	1,500,000	-0-
	Federal Funds	-0-	2,500,000	-0-
	TOTAL	-0-	4,000,000	-0-
261.	Expand Arboretum Visitor Center			
	Other Funds	-0-	2,870,000	-0-
262.	Biomedical Research Building – Design			
	Restricted Funds	-0-	7,600,000	-0-
263.	Renovate Student Center Food Court			
	Restricted Funds	-0-	1,643,000	-0-
264.	Renovate K-Lair Building			
	Restricted Funds	-0-	4,650,000	-0-
265.	Renovate SECAT Building at Coldstream			
	Restricted Funds	-0-	2,000,000	-0-
266.	Purchase Furniture and Equipment – Patient Care Facility			
	Restricted Funds	-0-	27,000,000	-0-
268.	***Renovate Blazer Hall Cafeteria***			
	Agency Bonds	***-0-***	***3,010,000***	***-0-***
269.	Fayette County - Administrative - Office Lease			
270.	Fayette County - Health Affairs - Office Lease 2			
271.	Fayette County - Health Affairs - Office Lease 3			
272.	Fayette County - Health Affairs - Office Lease			
273.	Fayette County - Lease - Blazer Parkway			
274.	Fayette County - Lease - Med Center Contract			
275.	Fayette County - Lease - Med Center Off-Campus Facility			
276.	Fayette County - Lease - Med Center Grant Projects			
277.	Fayette County - Lease - Pharmacy Contracted Program			
278.	Fayette County - Lease - Med College Off - Campus Clinic			
279.	Fayette County - Lease - Kentucky Utilities Building			
280.	Guaranteed Energy Savings Performance Contracts			
281.	***Existing Dorm Upgrades for Housing***			
	Agency Bonds	***-0-***	***7,013,000***	***-0-***

Section 55. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 9. UNIVERSITY OF LOUISVILLE, at pages 1252 to 1254, is amended to read as follows:

9. UNIVERSITY OF LOUISVILLE

001.	Construct HSC Research Facility Phase III - Additional			
	Bond Funds	-0-	69,680,000	-0-
	Agency Bonds	***-0-***	***15,800,000***	***-0-***

	TOTAL	*-0-*	*85,480,000*	*-0-*
002.	Construct Center for Predictive Medicine			
	Federal Funds	-0-	22,200,000	-0-
	Agency Bonds	-0-	13,000,000	-0-
	TOTAL	-0-	35,200,000	-0-
003.	Renovate Ekstrom Library			
	Restricted Funds	-0-	22,081,000	-0-
004.	Capital Renewal Pool			
	Restricted Funds	-0-	22,000,000	-0-
005.	Major Item of Equipment Pool			
	Restricted Funds	-0-	100,000	1,700,000
	Federal Funds	-0-	7,501,000	3,290,000
	Other Funds	-0-	6,250,000	2,470,000
	TOTAL	-0-	13,851,000	7,460,000
006.	Expand & Renovate - Founders Union Building			
	Restricted Funds	-0-	12,190,000	-0-
007.	Utility Distribution - South Belknap Campus			
	Restricted Funds	-0-	6,821,000	-0-
008.	Construct Student Health Facility			
	Restricted Funds	-0-	6,650,000	-0-
009.	Renovate Kersey Library			
	Restricted Funds	-0-	4,630,000	-0-
010.	Renovate Medical School Tower - 55A, Phase II			
	Restricted Funds	-0-	4,225,000	-0-
011.	Purchase Digital Communications System			
	Restricted Funds	-0-	4,000,000	-0-
012.	Purchase Real Estate Near Health Sciences Campus - Parcel II			
	Restricted Funds	-0-	3,875,000	-0-
013.	Renovate Code Improvement Pool			
	Restricted Funds	-0-	3,191,000	-0-
014.	Purchase Networking System			
	Restricted Funds	-0-	3,000,000	-0-
015.	Purchase Enterprise Application System			
	Restricted Funds	-0-	2,000,000	-0-
016.	Purchase Computer Processing System			
	Restricted Funds	-0-	2,000,000	-0-
017.	Expand & Renovate Oppenheimer Hall - Additional Reauthorization ($6,276,000 Restricted Funds)			
	Restricted Funds	-0-	1,654,000	-0-
018.	Purchase Electronic Research Information System			
	Restricted Funds	-0-	1,080,000	-0-
019.	Purchase Robotic Telescope System			
	Federal Funds	-0-	1,000,000	-0-
020.	Purchase Storage System			
	Restricted Funds	-0-	1,000,000	-0-
021.	Lease Digital Output System			
	Restricted Funds	-0-	1,000,000	-0-
022.	Lease-Purchase Visualization System			
	Restricted Funds	-0-	1,000,000	-0-

023.	Purchase Artificial Turf Practice Field Facility			
	Restricted Funds	-0-	750,000	-0-
024.	Housing Capital Renewal Pool			
	Restricted Funds	-0-	710,000	-0-
025.	Purchase Health Research Data System			
	Restricted Funds	-0-	700,000	-0-
026.	Renovate Natural Science Building - Additional Reauthorization ($12,840,000 Restricted Funds)			
	Restricted Funds	-0-	540,000	-0-
027.	Shelby Campus Dormitories Demolition			
	Restricted Funds	-0-	436,000	-0-
028.	Purchase New Computers for CBPA			
	Restricted Funds	-0-	300,000	-0-
029.	Purchase PCs, Printers, Scanners			
	Restricted Funds	-0-	200,000	-0-
030.	Purchase Linux Cluster Computer System			
	Restricted Funds	-0-	125,000	-0-
031.	Renovate Chemistry Fume Hood Redesign, Phase II - Additional Reauthorization ($4,534,000 Restricted Funds)			
	Restricted Funds	-0-	76,000	-0-
032.	Construct Athletic Academic Support Facility			
	Other Funds	-0-	5,000,000	-0-
033.	Construct Boathouse for Women's Rowing Program			
	Other Funds	-0-	2,947,000	-0-
034.	Construct Cardinal Club Golf Practice Facility			
	Other Funds	-0-	685,000	-0-
035.	Construct Diversity Center for Excellence			
	Other Funds	-0-	-0-	5,898,000
036.	Construct Executive MBA/Business Program			
	Other Funds	-0-	6,040,000	-0-
	Restricted Funds	-0-	20,500,000	-0-
	TOTAL	-0-	26,540,000	-0-
037.	Construct Glass and Visual Arts Research Center			
	Other Funds	-0-	3,015,000	-0-
038.	Construct Eastern Parkway Improvement			
	Restricted Funds	-0-	2,200,000	-0-
039.	Expand Tragar Field Hockey Stadium			
	Other Funds	-0-	3,200,000	-0-
040.	Expand and Renovate Dental School			
	Other Funds	-0-	2,000,000	-0-
	Restricted Funds	-0-	35,170,000	-0-
	TOTAL	-0-	37,170,000	-0-
041.	Purchase Support Service Land (Northeast Quad)			
	Restricted Funds	-0-	5,095,000	-0-
042.	Renovate PJCS Scoreboard/Video Replacement			
	Other Funds	-0-	1,800,000	-0-
043.	Renovate Life Sciences Building			
	Restricted Funds	-0-	18,240,000	-0-
045.	***Construct HSC Parking Structure II***			

	Agency Bonds	***-0-***	***28,500,000***	***-0-***
[	~~Agency Bonds~~	~~-0-~~	~~26,113,000~~	~~-0-~~]
046.	***Renovate Miller Hall***			
	Agency Bonds	***-0-***	***11,541,000***	***-0-***
048.	Construct Utilities, Remove Overhead Lines			

Section 56. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 10. WESTERN KENTUCKY UNIVERSITY, at pages 1255 and 1256, is amended to read as follows:

10. WESTERN KENTUCKY UNIVERSITY

001.	Renovate Academic/Athletic #2			
	Restricted Funds	-0-	2,000,000	-0-
	Agency Bonds	-0-	25,500,000	-0-
	Other Funds	-0-	1,000,000	-0-
	TOTAL	-0-	28,500,000	-0-
002.	***Renovate Science Campus Phase III***			
	Bond Funds	***-0-***	***9,000,000***	***-0-***
003.	***Construct Materials Characterization/ICSET Phase II***			
	Bond Funds	***-0-***	***4,500,000***	***-0-***
004.	Construct Agriculture Research Services Lab			
	Federal Funds	-0-	22,825,000	-0-
005.	Capital Projects Pool			
	Restricted Funds	-0-	10,195,000	-0-
006.	***Replace Building Ford College Business - Grise Hall, Phase I***			
	Bond Funds	***-0-***	***5,800,000***	***-0-***
007.	Renovate Electrical Distribution - Phase V			
	Restricted Funds	-0-	4,500,000	-0-
008.	Renovate Downing University Center			
	Restricted Funds	4,320,000	-0-	-0-
009.	Renovation & Expansion of Carroll Knicely Center			
	Restricted Funds	-0-	3,500,000	-0-
010.	Replace Steam Line			
	Restricted Funds	-0-	3,000,000	-0-
011.	Purchase Property for Campus Expansion			
	Restricted Funds	-0-	3,000,000	-0-
012.	Upgrade IT Infrastructure			
	Restricted Funds	-0-	2,000,000	-0-
013.	Construct Central Reg. Postsecondary Education Center Phase II			
	Restricted Funds	-0-	2,000,000	-0-
014.	Renovate Environmental Science & Technology HVAC & Electrical System			
	Restricted Funds	-0-	2,000,000	-0-
015.	Renovate Academic Complex Phase I			
	Restricted Funds	-0-	1,323,000	-0-
016.	Renovate Agriculture Expo Center HVAC System			
	Restricted Funds	-0-	930,000	-0-
017.	Convert WKYU-NPR-and WKYU-PS to Digital			
	Restricted Funds	-0-	500,000	-0-
018.	Renovation of Faculty House			
	Restricted Funds	-0-	500,000	-0-
019.	Replace College of Education Building - Tate Page Hall			
	Bond Funds	-0-	35,000,000	-0-

020.	***Acquire Property and Construct Parking Lots***			
	Agency Bonds	***-0-***	***4,000,000***	***-0-***
021.	***Expand Preston Center***			
	Agency Bonds	***-0-***	***10,000,000***	***-0-***
022.	Construct Mesonet Weather Monitoring System			
	Federal Funds	-0-	3,000,000	-0-
023.	***Van Meter Hall Renovation***			
	Agency Bonds	***-0-***	***16,000,000***	***-0-***
024.	***Ivan Wilson Fine Arts Center Expansion***			
	Agency Bonds	***-0-***	***8,000,000***	***-0-***
025.	Guaranteed Energy Savings Performance Contracts			

Section 57. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; K. POSTSECONDARY EDUCATION; 11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM, at pages 1256 to 1258, is amended to read as follows:

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

001.	Advanced Manufacturing Technology Center - Gateway Community and Technical College - Design			
	Bond Funds	-0-	28,000,000	-0-
002.	Construct Emerging Technology Center - West KY CTC			
	Bond Funds	-0-	16,518,000	-0-
003.	Construct Allied Health/Technical Education Building - Laurel Campus			
	Bond Funds	-0-	14,015,000	-0-
004.	Major Item of Equipment Pool			
	Restricted Funds	-0-	22,717,000	-0-
005.	Capital Renewal Pool			
	Restricted Funds	-0-	15,000,000	-0-
006.	Complete Acquisition of System Office & Expansion			
	Restricted Funds	-0-	10,000,000	-0-
007.	Land Acquisition Pool			
	Restricted Funds	-0-	5,500,000	-0-
008.	Construct Administration Building, Phase I - Maysville CC			
	Bond Funds	-0-	5,008,000	-0-
009.	Construct Licking Valley Center Phase II - Maysville CTC - Additional			
	Restricted Funds	-0-	3,459,000	-0-
	Bond Funds	***-0-***	***1,000,000***	***-0-***
	Other Funds	-0-	1,500,000	-0-
	TOTAL	-0-	5,959,000	-0-
010.	Renovate Gray Building - Madisonville CC			
	Restricted Funds	-0-	3,600,000	-0-
011.	Renovate KY School of Craft - Hazard CTC			
	Restricted Funds	-0-	2,649,000	-0-
	Federal Funds	-0-	250,000	-0-
	TOTAL	-0-	2,899,000	-0-
012.	Construct Child Development Center - Henderson CC			
	Federal Funds	-0-	250,000	-0-
	Other Funds	-0-	2,385,000	-0-
	TOTAL	-0-	2,635,000	-0-
013.	Renovate Anderson Building - West KY CTC			
	Restricted Funds	-0-	1,395,000	-0-

014.	Renovate Simulated Mine - Harlan Campus			
	Restricted Funds	-0-	1,380,000	-0-
015.	Greenspace Development - Big Sandy CTC Mayo Campus			
	Restricted Funds	-0-	1,083,000	-0-
016.	Renovate Administrative Building - Whitesburg Campus SEKYCTC			
	Restricted Funds	-0-	898,000	-0-
017.	Renovate Administrative Building - Elizabethtown CTC			
	Restricted Funds	-0-	850,000	-0-
018.	Master Plan Development & Upgrade Pool			
	Restricted Funds	-0-	850,000	-0-
019.	Pedestrian/Vehicular Connector - Somerset Community College - Additional			
	Restricted Funds	-0-	649,000	-0-
020.	Bluegrass CTC - Winchester Facility			
	Other Funds	-0-	500,000	-0-
021.	KCTCS Information Technology Infrastructure Upgrade Reauthorization ($12,000,000 Restricted Funds)			
022.	Scott County - Lease			
023.	Woodford County -City of Versailles - Lease-Purchase			
024.	Jefferson County - Lease			
025.	Henderson County - Lease			
026.	Guaranteed Energy Savings Performance Contracts			
027.	Construct Science/Allied Health Building - Jefferson CTC			
	Bond Funds	-0-	25,557,000	-0-
028.	Construct Central Regional Postsecondary Education Center Phase II - Elizabethtown CTC			
	Bond Funds	-0-	20,000,000	-0-
029.	Madisonville Postsecondary Education Center - Design			
	General Fund	-0-	300,000	-0-
030.	Advance Manufacturing Center - Design - Bluegrass CTC			
	Bond Funds	-0-	1,500,000	-0-
031.	Franklin Technology Center - Expansion			
	Bond Funds	-0-	2,700,000	-0-
032.	***Construct Carrollton Campus - Jefferson CTC***			
	Bond Funds	***-0-***	***12,000,000***	***-0-***
033.	Construct Tech Drive Campus, Phase III - Ashland CTC			
	Bond Funds	-0-	17,600,000	-0-
034.	***Energy and Advanced Technology Center - Madisonville CTC***			
	Bond Funds	***-0-***	***4,000,000***	***-0-***
035.	Springfield Community and Technical College			
	Bond Funds	-0-	14,500,000	-0-
036.	McCreary Center - Somerset CC			
	Bond Funds	-0-	6,500,000	-0-
037.	Mercer County Technical Center			
	Bond Funds	-0-	4,000,000	-0-
038.	***Advanced Technology Center - Owensboro CTC***			
	Bond Funds	***-0-***	***14,055,000***	***-0-***
039.	***Rowan County Campus - Maysville CTC - Design***			
	Bond Funds	***-0-***	***1,500,000***	***-0-***

Section 58. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; N. INFRASTRUCTURE FOR

ECONOMIC DEVELOPMENT FUND FOR COAL-PRODUCING COUNTIES, at page 1327, is amended to read as follows:

	Bond Funds	500,000	-0-
010.	Rattlesnake Ridge Water District - Phase VIII - Water Extension		
	Bond Funds	250,000	-0-
011.	Rattlesnake Ridge Water District - Water Line Extension		
	Bond Funds	500,000	-0-
Christian County			
001.	Christian County Water District - Water Line Extensions		
	Bond Funds	1,200,000	-0-
Clay County			
001.	City of Manchester - Amphitheater/Park/ Bridge Construction and Other Parks		
	Bond Funds	725,000	-0-
002.	Clay County Board of Education - Health Education Building		
	Bond Funds	750,000	-0-
003.	Clay County Fiscal Court - Administration Building and DAV Memorial		
	Bond Funds	400,000	-0-
004.	Clay County Fiscal Court - Ambulance/EMS Center		
	Bond Funds	250,000	-0-
005.	Clay County Fiscal Court - North Manchester Water Line Extensions		
	Bond Funds	125,000	-0-
006.	Clay County Fiscal Court - Recreation, Economic Development, Capital Construction, and Land Acquisition		
	Bond Funds	1,500,000	-0-
007.	Clay County Fiscal Court - Sewer Extension to Health Department and Resurfacing		
	Bond Funds	250,000	-0-
008.	***Clay County Fiscal Court - Water Line Extension and Water Plant Construction***		
	Bond Funds	***1,000,000***	***-0-***
[~~008.~~	~~Clay County Fiscal Court - Water Line Extension~~		
	~~Bond Funds~~	~~1,000,000~~	~~0~~]
009.	Clay County Fiscal Court - Wood Creek Water District - Line Extensions		
	Bond Funds	125,000	-0-
010.	Clay County Health Department Board - Capital Construction		

Section 59. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; N. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND FOR COAL-PRODUCING COUNTIES, at pages 1330 and 1331, is amended to read as follows:

	Collection System (SX21089032) and Storm Water/Sanitary Sewer		
	Bond Funds	680,000	-0-
007.	City of Worthington - Edsel Avenue Storm		

	Water Drain Bypass SX21089002		
	Bond Funds	70,000	-0-
008.	City of Wurtland - Isolation Values for Existing		
	Water System Infrastructure WX21089023		
	Bond Funds	30,000	-0-
009.	City of Wurtland - Lloyd Sewer Project		
	SX21089021		
	Bond Funds	470,000	-0-
010.	Greenbo State Park - Campground Construction		
	and Improvements		
	Bond Funds	1,100,000	-0-
011.	Greenup County Board of Education - Greenup County		
	High School Renovations		
	Bond Funds	200,000	-0-
012.	Greenup County Environmental Commission		
	(Flatwoods, Raceland, Russell, Sanitary Districts		
	1 and 2) - Upgrades to Sewer Treatment Plant and		
	Facilities SX21089006		
	Bond Funds	1,400,000	-0-
013.	Greenup County Fiscal Court - Ashland Regional		
	Airport at Worthington - Renovation and Improvements		
	Bond Funds	250,000	-0-
014.	Russell Independent Board of Education - Russell		
	High School Renovations		
	Bond Funds	200,000	-0-
Hancock County			
001.	Hancock County Fiscal Court - Bates Hollow		
	Road Water Extension		
	Bond Funds	50,000	-0-
002.	***Hancock County Fiscal Court - East Daviess/Lewisport***		
	Area - Water Line Extensions		
	Bond Funds	***225,000***	***-0-***
[~~002.~~	~~Hancock County Fiscal Court - East Daviess~~		
	~~County/Lewisport Area - Water Tower~~		
	~~Bond Funds~~	~~225,000~~	~~0~~]
003.	Hancock County Fiscal Court - Hawesville		
	Water and Sewer Improvements		
	Bond Funds	1,000,000	-0-
004.	Hancock County Fiscal Court - Hawesville		
	Water Tank		
	Bond Funds	500,000	-0-
005.	***Hancock County Fiscal Court - Water Line Extention***		
	Bond Funds	***225,000***	***-0-***
[~~005.~~	~~Hancock County Fiscal Court - Highway 60~~		
	~~East Water Tower Expansion~~		
	~~Bond Funds~~	~~225,000~~	~~0~~]
006.	Hancock County Fiscal Court - Lewisport Water		
	and Sewer Improvements		
	Bond Funds	1,000,000	-0-

007.	Hancock County Fiscal Court - Smith Bridge Highway 261 Water Line Extensions		
	Bond Funds	150,000	-0-
008.	Hancock County Fiscal Court - Various Extensions, Pump Station, and Hydrants		
	Bond Funds	295,000	-0-
Harlan County			
001.	Harlan County Fiscal Court - City of Harlan - Regular Upgrades		
	Bond Funds	300,000	-0-
002.	Harlan County Fiscal Court - City of Loyall - Regular Upgrades		
	Bond Funds	300,000	-0-
003.	Harlan County Fiscal Court - Sewer Line to Detention Center		
	Bond Funds	600,000	-0-
Henderson County			
001.	City of Henderson - Improvement of Drainage and Flow of Waters in Canoe Creek in and Around City and County		
	Bond Funds	1,250,000	-0-
Hopkins County			
001.	City of Dawson Springs - Sewer System Project		
	Bond Funds	400,000	-0-
002.	City of Earlington - Water and Sewer Line - Extension Project		
	Bond Funds	200,000	-0-
003.	City of Hanson - Gravity Flow Sewer System Project		

Section 60. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; N. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND FOR COAL-PRODUCING COUNTIES, at pages 1334 and 1335, is amended to read as follows:

006.	Knox County Board of Education - Health Education Centers for Lynn Camp and Knox Central Capital Construction		
	Bond Funds	1,000,000	-0-
007.	Knox County Fiscal Court - West Knox Annex		
	Bond Funds	750,000	-0-
008.	Knox County Utility Commission - Water Line Extension for Flat Creek and Hubbs Hollow		
	Bond Funds	250,000	-0-
009.	Knox County Utility Commission - Water Line Extension for Stinking Creek, Poplar Creek, and Flat Lick		
	Bond Funds	750,000	-0-
010.	Laurel District #2 - Knox County Lines		
	Bond Funds	225,000	-0-
011.	Laurel District No. 2 - Oak Ridge Road Water Line Extension		
	Bond Funds	5,000	-0-

012.	Knox County Fiscal Court - Wellness Center		
	Bond Funds	1,000,000	-0-
Laurel County			
001.	City of London - London City Park - Capital Construction at the College Park		
	Bond Funds	2,000,000	-0-
002.	East Laurel Water District - Sewer Line Extension - Conley Road to Crooked Creek		
	Bond Funds	325,000	-0-
003.	Laurel County Water District - Cross Key Subdivision - Sewer - Extensions		
	Bond Funds	500,000	-0-
004.	***Wood Creek Water District - Watershed Protection and Land***		
	Bond Funds	***1,000,000***	***-0-***
[~~004.~~	~~Laurel County Water District - Woodscreek Water - Extensions~~		
	~~Bond Funds~~	~~700,000~~	~~-0-~~]
005.	Laurel Public Works - Mill Street Retention Basin		
	Bond Funds	425,000	-0-
006.	London/Laurel Industrial Authority - Land Acquisition and Infrastructure		
	Bond Funds	1,250,000	-0-
007.	London Utility Commission - Sublimity/ Miller Lane/Meadow Lane		
	Bond Funds	1,200,000	-0-
008.	London Utility Commission - Sublimity Loop		
	Bond Funds	800,000	-0-
009.	London Water District #2 - Water Line		
	Bond Funds	750,000	-0-
010.	West Laurel Water District - Water Line		
	Bond Funds	54,000	-0-
[~~011.~~	~~Woods Creek Water District - Extension~~		
	~~Bond Funds~~	~~300,000~~	~~-0-~~]

Section 61. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; N. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND FOR COAL-PRODUCING COUNTIES, at page 1340, is amended to read as follows:

Perry County			
001.	City of Vicco - Sewer Maintenance		
	Bond Funds	200,000	-0-
002.	Perry County Fiscal Court - Hiner Water Line - Water Line Extension		
	Bond Funds	200,000	-0-
003.	Perry County Fiscal Court - Lower Lost Creek - Water Line Extension		
	Bond Funds	400,000	-0-
004.	Perry County Fiscal Court - South Perry County - Water Project Phase III		
	Bond Funds	400,000	-0-
Pike County			

001. Mountain Water District - Various Water and		
Sewer Projects - Extensions and Upgrades		
Bond Funds	1,282,000	-0-
Rockcastle County		
001. Rockcastle County Fiscal Court - Lake		
Linville Sewer Extension		
Bond Funds	1,100,000	-0-
002. Western Rockcastle Water Association - Add		
Four Inch Water Line on SR 1329 for a		
Distance of Four Miles		
Bond Funds	120,000	-0-
Union County		
001. City of Sturgis and Morganfield - Various		
Water and Sewer Projects		
Bond Funds	1,250,000	-0-
Webster County		
001. City of Clay - Water/Sewer Line Improvements		
Bond Funds	250,000	-
002. City of Dixon - Water System Debt Retirement		
Bond Funds	***150,000***	***-0-***
[~~002. City of Dixon - Water Line Upgrades~~		
~~Bond Funds~~	~~150,000~~	~~-0-~~]
003. City of Providence - Sewer Line Extension		
Bond Funds	250,000	-0-
004. City of Sebree - Water/Sewer Line Replacement		
Bond Funds	250,000	-0-
005. City of Slaughters - Water Line Improvements		

Section 62. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; N. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND FOR COAL-PRODUCING COUNTIES, at page 1341 is amended to read as follows:

and Fire Hydrants		
Bond Funds	250,000	-0-
006. Webster County Water District - Water		
Line Extension		
Bond Funds	250,000	-0-
Whitley County		
001. City of Williamsburg - Hal Rogers Water		
Park Expansion		
Bond Funds	400,000	-0-
002. Southeast Agriculture and Exposition Center -		
Utilities Infrastructure		
Bond Funds	***2,500,000***	***-0-***
[~~002. Corbin Area Technology Center - Utilities~~		
~~Infrastructure~~		
~~Bond Funds~~	~~2,500,000~~	~~-0-~~]
003. Corbin Utilities Company - Tattersall		
Bond Funds	700,000	-0-
004. University of the Cumberlands - Capital		
Construction - Pharmacy Building		
Bond Funds	10,000,000	-0-

005.	Whitley County Board of Education - Oak Grove Community Center Bond Funds	500,000	-0-
006.	Whitley County Fiscal Court - Courthouse Renovations Bond Funds	250,000	-0-
007.	Whitley County Fiscal Court - Fire Hydrant Refill Station for Canadytown Community Bond Funds	40,000	-0-
008.	***Whitley County Fiscal Court - Rural Water Lines for unserved regions of Water Project AML, Meadow Creek, Tackett Creek Area of Whitley County and Infrastructure Projects Related to Riverwoods Facility*** ***Bond Funds***	***1,160,000***	***-0-***
[~~008.~~	~~Whitley County Fiscal Court - Rural Water Lines for unserved regions of Water Project AML, Meadow Creek/Tackett Creek Area of Whitley County~~ ~~Bond Funds~~	~~1,160,000~~	~~-0-~~]

O. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND FOR NON-COAL PRODUCING COUNTIES

(1) Bond Authority: Bond Funds in the amount of $150,000,000 are authorized for projects within the Infrastructure for Economic Development Fund for Non-Coal Producing Counties. The Bond Pool authorization identified in Part II, A. General Government, 2. Kentucky Infrastructure Authority, Item 003., of this Act, and the Projects list as identified in this section shall be placed under the jurisdiction of the Kentucky Infrastructure Authority (KIA). There is $13,968,000 in fiscal year 2007-2008 appropriated from the General Fund for debt service.

Section 63. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; O. INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT FUND FOR NON-COAL PRODUCING COUNTIES, at page 1348, is amended to read as follows:

008.	Murray Water District #3 - WX21035023 - Water Consolidation Improvement Study Bond Funds	50,000	-0-
009.	South 641 Water District - SX21035008 - Wastewater System Improvements Bond Funds	200,000	-0-

Campbell County

001.	City of Alexandria Sewer Project - Alexandria/Viewpoint Bond Funds	315,000	-0-
002.	City of Newport - Various Water Projects Including Water Line Replacement to the Waterworks Road Bridge and Newport Pavilion Project Area Waterline/Storm Water Upgrades Bond Funds	600,000	-0-
003.	City of Wilder - Three Mile Road/Gibson Lane from I-275 to Licking Pike Water Project Bond Funds	200,000	-0-

Carlisle County

001.	***City of Bardwell - Water System Improvements***		

	Bond Funds	***500,000***	***-0-***
[~~001.~~	~~City of Bardwell - SX21039005 - Sewer System Rehabilitation~~		
	~~Bond Funds~~	~~500,000~~	~~-0-~~]
002.	Cunningham Water District - WX21039014 - Water Tower Repair		
	Bond Funds	45,000	-0-
Carroll County			
001.	Carrollton Utilities - SX21041300 - Happy Hollow/ Regional Sewer System Improvements		
	Bond Funds	800,000	-0-
Casey County			
001.	City of Liberty - WX21045004 - Water Treatment Plant and System Improvements		
	Bond Funds	2,200,000	-0-
Clark County			
001.	Clark County Fiscal Court - Colby Hills Sanitary Sewer Improvements		
	Bond Funds	500,000	-0-
002.	Clark County Fiscal Court - Forest Park		

Section 64. 2006 Kentucky Acts Chapter 252, PART II, CAPITAL PROJECTS BUDGET; P. COMMUNITY DEVELOPMENT FUND PROJECTS; 1. GENERAL GOVERNMENT, at pages 1391 and 1392, is amended to read as follows:

Montgomery County			
001.	Juvenile Justice - Gateway Juvenile Diversion Center Operational Support		
	General Fund	50,000	50,000
002.	Juvenile Justice - Gateway Juvenile Diversion Center Renovation		
	Bond Funds	600,000	-0-
003.	Montgomery County Fiscal Court - Gateway Regional Arts Center		
	General Fund	50,000	50,000
Muhlenberg County			
001.	***Lake Malone State Park - Park Improvements***		
	Bond Funds	***200,000***	***-0-***
002.	Muhlenberg County Fiscal Court - Courthouse Dome Repair		
	Bond Funds	200,000	-0-
003.	Muhlenberg County Fiscal Court - Muhlenberg County Agricultural Center		
	General Fund	100,000	-0-
Nelson County			
001.	Nelson County Fiscal Court - Kentucky Railway Museum - Renovation/Upgrade, Road Bid and Bridge Improvements		
	Bond Funds	1,700,000	-0-
Oldham County			
001.	Oldham County Fair Board - Oldham County Fairgrounds Facility Renovation and Infrastructure		

	Improvements		
	General Fund	100,000	-0-
002.	Oldham County Fiscal Court - Oldham County Parks Department - South Oldham Little League Improvement to Peggy Baker Park		
	General Fund	15,000	-0-
003.	Oldham County Fiscal Court - Westport Park Improvements		
	General Fund	-0-	250,000
004.	Oldham CountyFiscal Court - Library Improvements		
	Bond Funds	1,500,000	-0-
Pendleton County			
001.	Pendleton County Fiscal Court - Athletic Park Infrastructure and Construction of Concession Stand		
	General Fund	50,000	-0-
Pike County			
001.	***Pike County Fiscal Court - Pikeville Medical Center Planning, Design, and Construction***		
	Bond Funds	***1,500,000***	***-0-***
Pulaski County			
001.	City of Burnside - Park Infrastructure Improvement		
	General Fund	50,000	-0-
002.	City of Eubank - City Infrastructure Improvement		
	General Fund	50,000	-0-
003.	City of Science Hill - Park Infrastructure Improvement		
	General Fund	50,000	-0-
004.	City of Somerset - City Park Improvement		
	General Fund	100,000	-0-
005.	Pulaski County Board of Education - Pulaski Secondary Vocational School Project		
	General Fund	300,000	-0-
006.	Pulaski County Fiscal Court - Parks and Recreation Development		
	General Fund	200,000	200,000
Robertson County			
001.	Robertson County Board of Education - Deming School Replacement/Renovations		
	Bond Funds	500,000	-0-
002.	Robertson County Fiscal Court - Mt. Olivet Community Center		
	General Fund	300,000	-0-
Rockcastle County			
001.	City of Mt. Vernon - Relocate Utility Lines For Hospital Expansion		
	General Fund	100,000	-0-

Section 65. 2006 Kentucky Acts Chapter 252, PART IV, STATE SALARY/COMPENSATION AND EMPLOYMENT

POLICY; 3. Salary Adjustments, at page 1402, is amended to read as follows:

3. **Salary Adjustments:** Notwithstanding KRS 18A.355 ***and 151B.035(12),*** in fiscal year 2006-2007 and in fiscal year 2007-2008, a salary adjustment amounting to an annualized value on the base salary or wages of each eligible full-time and part-time employee on their anniversary date is provided. The amount of the salary adjustment is determined by each eligible employee's annual base salary or wages on their anniversary date, and the following table reflects the annualized values of the salary adjustment for fiscal year 2006-2007 and fiscal year 2007-2008, except as provided by this section.

Annual Base Salary or Wages	**2006-07**	**2007-08**
$0 to $30,000.00	$1,350	$1,350
$30,000.01 to $50,000.00	$1,200	$1,200
$50,000.01 to $60,000.00	$1,000	$1,000
$60,000.01 to $80,000.00	$600	$600
$80,000.01 and above	$400	$400

Commencing with an eligible employee's anniversary date, the salary adjustment shall be added to the eligible employee's base salary or wages and shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The Secretary of the Personnel Cabinet shall determine the pro rata amount of the salary adjustment to be provided to part-time employees. The salary adjustment shall be a part of the salary or wage base of the employee. ***This section shall be deemed to be retroactive and shall apply to actions on or after July 1, 2006.***

Section 66. 2006 Kentucky Acts Chapter 252, PART VI, GENERAL FUND BUDGET REDUCTION PLAN, at page 1409, is amended to read as follows:

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of ***$8,700,574,800***~~[$8,514,872,500]~~ in fiscal year 2006-2007 and ***$9,005,362,000***~~[$8,879,172,400]~~ in fiscal year 2007-2008 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act;

(2) Transfers of excess unappropriated Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units;

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth;

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2006-2007 and 50 percent of the trust fund balance in fiscal year 2007-2008; and

(5) Notwithstanding KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in this Part.

Section 67. 2006 Kentucky Acts Chapter 252, PART VII, GENERAL FUND SURPLUS EXPENDITURE PLAN, at pages 1409 and 1410, is amended to read as follows:

PART VII

GENERAL FUND SURPLUS EXPENDITURE PLAN

(1) Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2006-2007 and 2007-2008. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 27, of this Act are appropriated to the following:

(a) Necessary Government Expenses, including but not limited to Emergency Orders formally declared by the Governor in an Executive Order;

(b) Increased support to the Budget Reserve Trust Fund;

(c) The Kentucky Retirement Systems Insurance Fund as established in KRS 61.701, to be allocated in proportion to the contributions required according to KRS 61.702(2) for the Kentucky Employees Retirement System Insurance Fund and the State Police Retirement System Insurance Fund; and

[~~(c) The Kentucky Retirement Systems to address a portion of the actuarially unfunded liability; and~~]

(d) The Kentucky Teachers' Retirement System's medical insurance fund as established in KRS 161.420 to augment the state medical insurance stabilization contribution as established in KRS 161.550.

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of the fiscal year 2005-2006, and the close of fiscal year 2006-2007, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2005-2006 and fiscal year 2006-2007. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2006, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2005-2006 pursuant to the Plan.

Section 68. 2006 Kentucky Acts Chapter 252, PART VIII, ROAD FUND BUDGET REDUCTION PLAN, at page 1410, is amended to read as follows:

PART VIII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2006-2007 and fiscal year 2007-2008. Pursuant to KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,238,685,300 in fiscal year 2006-2007 and ***$1,288,855,500***[~~$1,261,931,900~~] in fiscal year 2007-2008 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service.

Section 69. 2006 Kentucky Acts Chapter 252, PART XI, STATE/EXECUTIVE BRANCH BUDGET SUMMARY, at pages 1414 and 1415, is amended to read as follows:

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2005-06	*2006-07*	*2007-08*
General Fund (Tobacco)	*-0-*	*88,800,000*	*94,000,000*
General Fund 86,848,200	*8,584,787,400*	*9,094,791,100*	
Restricted Funds	*7,669,300*	*4,846,494,000*	*4,731,034,700*
Federal Funds	*274,526,200*	*7,173,272,300*	*7,339,168,500*
Road Fund 12,805,700	*1,229,893,800*	*1,255,136,900*	
Highway Bonds	*-0-*	*350,000,000*	*-0-*
SUBTOTAL 381,849,400	*22,273,247,500*	*22,514,131,200*	

CAPITAL PROJECTS BUDGET

	2005-06	*2006-07*	*2007-08*
General Fund (Tobacco)	*-0-*	*-0-*	*-0-*
General Fund -0-	*22,145,800*	*11,103,000*	
Restricted Funds	*4,320,000*	*1,649,349,400*	*60,762,200*
Federal Funds	*-0-*	*179,082,000*	*22,190,000*
Road Fund -0-	*10,285,000*	*17,080,000*	
Bond Funds -0-	*1,650,172,000*	*-0-*	
Agency Bonds -0-	*449,548,000*	*-0-*	

Capital Construction Surplus	*-0-*	*4,107,000*	*1,045,000*
Investment Income	*-0-*	*10,900,000*	*10,810,000*
Other Funds -0-	*210,141,000*	*17,868,000*	
Deferred Maintenance	*-0-*	*-0-*	*-0-*
Emergency Repair Maintenance and Replacement	*-0-*	*1,700,000*	*-0-*
SUBTOTAL 4,320,000	*4,187,430,200*	*140,858,200*	

TOTAL - STATE/EXECUTIVE BUDGET

	2005-06	*2006-07*	*2007-08*
General Fund (Tobacco)	*-0-*	*88,800,000*	*94,000,000*
General Fund 86,848,200	*8,606,933,200*	*9,105,894,100*	
Restricted Funds	*11,989,300*	*6,495,843,400*	*4,791,796,900*
Federal Funds	*274,526,200*	*7,352,354,300*	*7,361,358,500*
Road Fund 12,805,700	*1,240,178,800*	*1,272,216,900*	
Highway Bonds	*-0-*	*350,000,000*	*-0-*
Bond Funds -0-	*1,650,172,000*	*-0-*	
Agency Bonds -0-	*449,584,000*	*-0-*	
Capital Construction Surplus	*-0-*	*4,107,000*	*1,045,000*
Investment Income	*-0-*	*10,900,000*	*10,810,000*
Other Funds -0-	*210,141,000*	*17,868,000*	
Deferred Maintenance	*-0-*	*-0-*	*-0-*
Emergency Repair Maintenance and Replacement	*-0-*	*1,700,000*	*-0-*
TOTAL FUNDS	*386,169,400*	*26,460,677,700*	*22,654,989,400*

[~~OPERATING BUDGET~~

	~~2005-06~~	~~2006-07~~	~~2007-08~~
~~General Fund (Tobacco)~~	~~-0-~~	~~88,800,000~~	~~94,000,000~~
~~General Fund 86,848,200~~	~~8,377,397,500~~	~~9,013,922,400~~	
~~Restricted Funds~~	~~7,669,300~~	~~4,848,685,800~~	~~4,725,186,100~~
~~Federal Funds 274,526,200~~	~~7,173,272,300~~	~~7,336,562,900~~	
~~Road Fund~~	~~12,805,700~~	~~1,229,893,800~~	~~1,255,136,900~~
~~Highway Bonds~~	~~-0-~~	~~350,000,000~~	~~-0-~~
~~SUBTOTAL 381,849,400~~	~~22,068,049,400~~	~~22,424,808,300~~	

~~CAPITAL PROJECTS BUDGET~~

	~~2005-06~~	~~2006-07~~	~~2007-08~~
~~General Fund (Tobacco)~~	~~-0-~~	~~-0-~~	~~-0-~~
~~General Fund -0-~~	~~22,145,800~~	~~11,103,000~~	
~~Restricted Funds~~	~~4,320,000~~	~~1,649,349,400~~	~~60,762,200~~
~~Federal Funds -0-~~	~~179,082,000~~	~~22,190,000~~	
~~Road Fund~~	~~-0-~~	~~10,285,000~~	~~6,795,000~~
~~Bond Funds -0-~~	~~*1,394,691,000~~	~~-0-~~	
~~Agency Bonds -0-~~	~~*267,537,000~~	~~-0-~~	
~~Capital Construction Surplus~~	~~-0-~~	~~4,107,000~~	~~1,045,000~~
~~Investment Income~~	~~-0-~~	~~10,900,000~~	~~10,810,000~~
~~Other Funds -0-~~	~~210,141,000~~	~~17,868,000~~	
~~Deferred Maintenance~~	~~-0-~~	~~-0-~~	~~-0-~~
~~Emergency Repair Maintenance and Replacement~~	~~-0-~~	~~1,700,000~~	~~-0-~~

~~SUBTOTAL 4,320,000~~	~~*3,749,938,200~~	~~130,573,200~~

~~BUDGET RESERVE TRUST FUND~~

~~General Fund 0~~	~~35,000,000~~	~~20,000,000~~

~~TOTAL - STATE/EXECUTIVE BUDGET~~

	~~2005-06~~	~~2006-07~~	~~2007-08~~
~~General Fund (Tobacco)~~	~~0~~	~~88,800,000~~	~~94,000,000~~
~~General Fund 86,848,200~~	~~8,434,543,300~~	~~9,045,025,400~~	
~~Restricted Funds~~	~~11,989,300~~	~~6,498,035,200~~	~~4,785,948,300~~
~~Federal Funds 274,526,200~~	~~7,352,354,300~~	~~7,358,752,900~~	
~~Road Fund~~	~~12,805,700~~	~~1,240,178,800~~	~~1,261,931,900~~
~~Highway Bonds~~	~~0~~	~~350,000,000~~	~~0~~
~~Bond Funds 0~~	~~*1,394,691,000~~	~~0~~	
~~Agency Bonds 0~~	~~*267,537,000~~	~~0~~	
~~Capital Construction Surplus~~	~~0~~	~~4,107,000~~	~~1,045,000~~
~~Investment Income~~	~~0~~	~~10,900,000~~	~~10,810,000~~
~~Other Funds 0~~	~~210,141,000~~	~~17,868,000~~	
~~Deferred Maintenance~~	~~0~~	~~0~~	~~0~~
~~Emergency Repair Maintenance and Replacement~~	~~0~~	~~1,700,000~~	~~0~~
~~TOTAL FUNDS~~	~~386,169,400~~	~~*25,852,987,600~~	~~22,575,381,500]~~

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act. The above Budget Reserve Trust Fund is directly funded in ***Part I, Operating Budget, and*** Part III, General Provisions, of this Act.

Section 70. Whereas it is critical to provide fiscal resources in the current fiscal year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Calendar

HB 67, 140, 190, 198, 403, SJR 16, HB 225, 287, and **390** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 175, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute to **HB 175.** Agreed.

Representative Westrom moved that **HB 175,** by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 20, 2007, roll call on **HB 175** - Appendix.)

HB 175, by way of Committee Substitute, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 175,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 8 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 8** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 20, 2007, roll call on **HB 8** - Appendix.)

HB 8 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 8** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 291, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Henderson moved the adoption of the Committee Substitute to **HB 291**. Agreed.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 291**. Agreed.

Representative Henderson moved that **HB 291**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 20, 2007, roll call on **HB 291** - Appendix.)

HB 291, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Henderson moved that the vote by which **HB 291**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 212, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HB 212**. Agreed.

Representative Graham moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 212**. Agreed.

Representative Graham moved that **HB 212**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 4**. (See February 20, 2007, roll call on **HB 212** - Appendix.)

HB 212, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 212**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of the Committee Substitute to **HB 389**. Agreed.

Representative Miller moved that **HB 389**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 20, 2007, roll call on **HB 389** - Appendix.)

HB 389, by way of Committee Substitute, was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 389**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 128, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved the adoption of Floor Amendment No. 1 to **HB 128**. Agreed.

Representative C. Belcher moved that **HB 128**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 20, 2007, roll call on **HB 128** - Appendix.)

HB 128, as amended, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 128,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 100, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of the Committee Substitute to **HB 100.** Agreed.

Representative Pullin moved that **HB 100,** by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 20, 2007, roll call on **HB 100** - Appendix.)

HB 100, by way of Committee Substitute, was passed and the title agreed to.

Representative Pullin moved that the vote by which **HB 100,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 4** be passed.

On the roll call the vote was: **Yeas 95, Nays 3.** (See February 4, 2007, roll call on **HB 4** - Appendix.)

HB 4 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 4** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that **HCR 141** be reassigned to the Committee on State Government. Agreed.

Representative Adkins moved that the rules be suspended to place **SJR 16** in the Orders of the Day. Agreed.

Representative Adkins moved that the rules be suspended and that **HB 287** be recommitted to the Committee on Seniors, Military Affairs and Public Safety. Agreed.

Representative Adkins moved that the rules be suspended and that **HB 184** be withdrawn by request of the sponsor. Agreed.

Representative Adkins moved that the posting requirement be waived on the following: **HB 551, 539, 540, 121, 549, 479, 536, 465, 289, 304, SB 88, HB 449, HCR 148, HB 61, 274, 322, 469, 523, 500.** Agreed.

Representative Rollins requested that the Journal reflect that he did not vote on **HB 100** due to a conflict of interest as referenced in Section 57 of the Kentucky Constitution.

Representative Gooch moved the adoption of the following **Legislative Citation No. 35.**

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Joshua Lee McGrew of Henderson, Kentucky, and joins with Representative Jim Gooch, Jr. in expressing deepest sympathy to the McGrew Family and all who share in the tragic loss of this beloved citizen on September 10, 2006. He is survived by his wife of five years, Carrie Fulton McGrew; daughter, Ella Kathryn McGrew; son, Braxton Lee McGrew; mother, Kim McGrew; brother Jobe McGrew; grandparents, G.L. and Henrietta Campbell, Raymond and Connie Towery, and Wayne McGrew; and, a host of other family members, friends and loved ones. This esteemed citizen, who attended Chapel Hill Methodist Church in Henderson, Kentucky, and was a member of Labor's Union No. 561 in Evansville, Indiana, and the Local

Operators Union No. 181, is remembered on this day for the many and generous contributions he made to his family, friends and community. Joshua Lee McGrew will be profoundly missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and seven.

Legislative Citation No. 35 was adopted without objection.

Representative Stein moved the adoption of the following **HR 112**:

HR 112, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joy Edwards Hembree.

WHEREAS, Joy Edwards Hembree was born in Roane County, Tennessee to the late Charles E. and Melinda Rose Edwards, and left this earthly life on January 31, 2007. Reared on a farm in Tennessee, she once taught eight grades in a one-room school, never dreaming of the impact her determined and generous spirit would have on the lives of countless others. She was a well-known and widely respected volunteer in countless charitable and educational endeavors, and worked tirelessly for more than a decade to secure the commitment to begin the Kentucky Children's Hospital at the University of Kentucky. Mrs. Hembree was also instrumental in making the hospital a part of the Children's Miracle Network; and

WHEREAS, Joy Hembree was one of the original members of the Prichard Committee for Academic Excellence and was heavily involved in the Carnegie Center for Literacy and Learning. She served on the boards of the Lexington Public Library, the Kentucky Education Foundation, the local chapter of the National Conference of Christians and Jews, the Bluegrass Community Foundation, the Wilderness Road Girl Scout Council, and the Lexington Philharmonic Society, to name just a few. She received numerous awards, including the Sullivan Medallion from the University of Kentucky, the Optimist Cup for service in her community in 1981, and the YMCA Woman of Achievement Award. She was named Lexington's Outstanding Woman in 1975 and Lexington's Citizen of the Year in 1979. She was also an active member of Immanuel Baptist Church, where she taught Sunday school and was a book reviewer for the Round Table Book Club; and

WHEREAS, Mrs. Hembree was preceded in death by a brother, Charles Edwards, and her death is mourned by her devoted husband of 60 years, Rusty; her daughter, Joy Dawn Skelton, and her husband, Steve; three sisters and one brother; two grandsons, and two sisters-in-law;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its profound sorrow upon the passing of Joy Edwards Hembree, and extends to her family, friends, and the community she loved so much its sincere sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Joy Edwards Hembree.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Charles R. Hembree, 620 Raintree Road, Lexington, Kentucky 40502.

There being no objection, **HR 112** was adopted.

Representative Stein moved the adoption of the following **HR 113**:

HR 113, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. Raymond Frederick Betts.

WHEREAS, Dr. Raymond Frederick Betts, prolific scholar and highly respected educator, departed this life on February 2, 2007, at the age of 81 years, marking the end of a lifetime dedicated to sharing a love for learning and a deep commitment to the advancement of higher education; and

WHEREAS, Dr. Betts joined the faculty of the University of Kentucky in 1971, and later became a tenured professor, widely recognized for his contributions to the study of European history. A teacher, author, and educational architect, he will long be remembered for founding, along with John R. Gaines, the University of Kentucky Gaines Center for the Humanities, an intellectual clearinghouse for top undergraduate students. His uncanny ability to see in his students potential they may never have realized enabled him to inspire thousands of young people to aspire to achieve their most lofty dreams; and

WHEREAS, Dr. Betts was bestowed with many honors throughout his career, including two University of Kentucky Alumni Association Great Teacher Awards; Distinguished Professor for the College of Arts and Sciences; Chancellor's Award for Excellence in Service and Commitment to Teaching; Outstanding Kentucky Humanist Award from the Kentucky Humanities Council; an Honorary Doctorate in the Humanities from the University of Kentucky; and the Kentucky Star 2006; and

WHEREAS, Dr. Raymond F. Betts is survived by his loving wife, Irene Donahue Betts; his children, Kenneth Betts and his wife Gina, James W. Betts and his wife Francine, and Susan Betts; a brother, James W. Betts, Jr., and his wife Barbara; a sister, Jean Walden, and her husband Eugene; and his grandchildren, James Betts, IV, Andrew Betts, John Ryan Betts, and Logan Betts;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sadness upon the passing of Dr. Raymond Frederick Betts, and extends its sincere condolences to his family, friends, colleagues, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the late Dr. Raymond Frederick Betts, and honors his outstanding contributions to the field of higher education and to the lives of thousands of young people whose lives he touched.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Irene Betts, 102 Griffin Gate Drive, Lexington, Kentucky 40511-1361.

There being no objection, **HR 113** was adopted.

Representative Stein moved the adoption of the following **HR 114**:

HR 114, A RESOLUTION adjourning the House of Representatives in loving memory and honor of John A. Bell III.

WHEREAS, the world of horse racing lost one its great champions on January 31, 2007, with the passing of John A. Bell III at the age of 88 years. Raised on a farm in Pennsylvania, he began his career as a young man by using the proceeds from the sale of a litter of pigs to buy his first mare, not knowing that he would someday be revered as a national leader in the racing industry; and

WHEREAS, Mr. Bell was a graduate of Princeton University and attended the Harvard School of Business. Following his discharge from military service, he made his first visit to what would be his future home when he vacationed in the Bluegrass State. In 1954, he founded Jonabell Farm in Fayette County, probably best known as home to Triple Crown winner Affirmed, who is buried there. During his career, he raised Never Say Die, the first American-bred horse to win the English Derby, and prize-winning horses Damascus, Battlefield, and Epitome. He also owned two winners of the Spinster Stakes at Keeneland, Trysomethingnew and Hail a Cab; and

WHEREAS, John A. Bell III had served as president of the Thoroughbred Club of America; was a member of the Kentucky Racing Commission; a director of the Breeders' Cup board; and director of the Grayson Foundation. He was instrumental in helping to organize the American Horse Council in Washington, D.C., and it he was serving on the racing commission of that entity during the 1970s when federal legislation was enacted to allow simulcasting; and

WHEREAS, Jonabell Farm was sold in 2001 to Sheikh Mohammed Bin Rashid al-Maktoum, and although his interest in horse racing never waned, Mr. Bell, who was a recovering alcoholic for 30 years, had a strong desire to help others who suffer from the disease. Prior to his death, he had become involved in creating the Bell Chair for Alcohol and Addictions at the University of Kentucky College of Medicine, leaving yet another legacy of a long life well-lived; and

WHEREAS, John A. Bell III is survived by his devoted wife of 60 years, Jessica Gay Bell; two daughters, Jessica Nicholson and Bennett Williams; and two sons, John A. Bell IV, and James G. "Jimmy" Bell;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sadness upon the passing of John A. Bell III, and extends to his family, friends, and community its sincere sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of John A. Bell III.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Jessica Gay Bell, 96 Chinoe Road, Lexington, Kentucky 40502-1927.

There being no objection, **HR 114** was adopted.

Representative Osborne moved the adoption of the following **Legislative Citation No. 37**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Marion Gene Snyder and joins with Representative David W. Osborne in expressing deepest sympathy to the Snyder Family and all who mourn the loss on February 16, 2007, of this esteemed citizen. He is survived by his cherished wife, Pat Snyder; beloved son, Mark Snyder; step-children, Ginger and Chris Robertson; brother, Ronald Snyder; and, a host of other family members, friends and loved ones. A 1950 graduate of the University of Louisville School of Law, where he earned his L.L.B. and J.D., this highly-regarded gentleman was admitted to the bar and began practicing law that same year; was a skilled farmer and well-known local businessman who had labored in real estate, insurance and the residential construction business; was active in politics, having served as the City Attorney for Jeffersontown, Kentucky from 1954-58, as Magistrate of the 1st District of Jefferson County from January 1958 - January 1962, and, as a Republican Representative to the United States Congress from 1963 until his retirement in 1987; was the recipient of a multitude of awards and accolades for his service to the community and this great

Commonwealth; and, is remembered on this day and honored for the many and generous contributions he made to his family, friends and the community. Marion Gene Snyder will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twentieth day of February, in the year two thousand and seven.

Legislative Citation No. 37 was adopted without objection.

Representative Floyd moved that **HB 174** be withdrawn. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 572, by Representatives Kerr and Simpson: AN ACT relating to road districts.

HB 573, by Representative Riggs: AN ACT relating to sales and use tax.

HCR 163, by Representatives Wuchner and Webb: A CONCURRENT RESOLUTION urging the United States Congress and the United States Food and Drug Administration (FDA) to require that all meat, milk, or other food products derived from clones of adult cattle, pigs, and goats, and their offspring, be labeled as "cloned" so that US consumers can easily identify those products.

HCR 164, by Representatives Meeks, Owens, Marzian, Miller, Clark, Horlander, Crimm, and Wayne: A CONCURRENT RESOLUTION directing the Legislative Research Commission to designate staff to study railroad hazard and safety issues in Jefferson County.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 61, 74, 105, 274, 322, 343, 382, 465, 469, 477, SB 4, 34, 88**

Floor Amendments

Floor Amendment No. 1 to **HB 394**, by Representative Jenkins:

HB 394, On page 2, lines 5 and 6, delete "*(7)The board may promulgate administrative regulations requiring the presence of specified equipment at each licensed optical establishment.*"; and

On page 2, at the beginning of line 7, delete "*(8)*", and insert in lieu thereof "*(7)*"; and

On page 2, at the beginning of line 9, delete "*(9)*", and insert in lieu thereof "*(8)*"; and

On page 2, at the beginning of line 11, delete "*(10)*", and insert in lieu thereof "*(9)*"; and

On page 2, lines 20 and 21, delete "*related accessories*"; and

On page 2, line 21, remove the opening bracket before the word "appurtenances", and on page 2, line 21, remove the closing bracket after "thereto", and delete the intervening strikethroughs; and

On page 2, line 25, delete "*related accessories*"; and

On page 2, line 25, remove the opening bracket before the word "appurtenances", and on page 2, line 25, remove the closing bracket after "thereto", and delete the intervening strikethroughs.

Floor Amendment No. 1 to **HB 399**, by Representative McKee:

HB 399, On page 1, line 11, after "*fertilizer*", by inserting "*regulated pursuant to KRS 250.371*"; and

On page 1, lines 15 to 18, by deleting subsection (3) in its entirety and inserting the following in lieu thereof:

"(3) Nothing in this section shall be construed to*:*

(a) Abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program*;*

(b) Abrogate the planning and zoning authority granted local government pursuant to KRS Chapter 100; or

(c) Waive any reporting requirement established by state or federal law or regulation."; and

On page 1, line 24, after the word "***fertilizers***", by inserting "***regulated pursuant to KRS 250.371***"; and

On page 2, lines 1 to 4, by deleting subsection (2) in its entirety and inserting the following in lieu thereof:

"***(2) Nothing in this section shall be construed to:***

(a) Abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program;

(b) Abrogate the planning and zoning authority granted local government pursuant to KRS Chapter 100; or

(c) Waive any reporting requirement established by state or federal law or regulation.".

Floor Amendment No. 1 to the Committee Substitute to **HB 175**, by Representative Stein:

HB 175, On page 3, after line 27, by inserting the following:

"Section 3. In recognition of 22 years of learned and stalwart service in the lawmaking branch of government, the Clerk of the House of Representatives shall prepare for issuance to the House Member occupying the seat for House District 36, known affectionately to his admiring colleagues as the "Gentleman from Garrard," a certificate conferring a degree of Juris Doctor. This certificate may be conferred upon and accepted by said gentleman at any point after the Gentleman from Garrard recites and explains to this honorable body the Rule Against Perpetuities during that portion of the legislative day reserved for Motions, Petitions, and Communications.".

Floor Amendment No. 4 to **HB 64**, by Representative Floyd:

HB 64, On page 5, line 1, delete "***and***"; and

On page 5, line 5, following "***students***" delete "***.***" and insert "***; and***" in lieu thereof; and

On page 5, between lines 5 and 6, insert

"***4. Provide training to victims of bullying for victim empowerment and their personal safety to include techniques to discourage bullying and techniques to effectively counter bullying, including how to deflect or redirect bullying, and options for acquiring physical and verbal self-defense techniques.***".

Floor Amendment No. 6 to the Committee Substitute to **HB 403**, by Representative Floyd:

HB 403, On page 1, after line 19, insert the following:

"***(5) Attorney fees for services provided under this section to the surviving spouse in a wrongful death action for loss of consortium shall be limited to five percent (5%) of the amount recovered. Any contract for the payment of attorney fees in an amount greater than as provided in this subsection shall be void.***".

Floor Amendment No. 5 to **HB 403**, by Representative Floyd:

HB 403, On page 1, after line 22, insert the following:

"***(6) Attorney fees for services provided under this section to the surviving spouse in a wrongful death action for loss of consortium shall be limited to five percent (5%) of the amount recovered. Any contract for the payment of attorney fees in an amount greater than as provided in this subsection shall be void.***".

Floor Amendment No. 4 Title to **HB 345**, by Representative Floyd:

HB 345, Amend the title to read as follows:

"AN ACT relating to immunizations.".

Floor Amendment No. 1 to the Committee Substitute to **HB 362**, by Representative Burch:

HB 362, On page 5, line 7, after "department;", by deleting "and";

On page 5, line 8, after "(j)" by inserting:

" The executive director or designee of the Kentucky Association of State Employees; and

(k) ".

Floor Amendment No. 1 to the Committee Substitute to **HB 152**, by Representative Marzian:

HB 152, On page 3, after line 18, after "***(i)***" by inserting the following:

"***One (1) emergency room physician from the University of Kentucky Medical Center appointed by the dean of the College of Medicine, and one (1) emergency room physician from the University of Louisville appointed by the dean of the School of Medicine;***

(j) One (1) trauma surgeon who provides care in a rural area of the state and one (1) trauma surgeon from a Level I trauma center, both appointed by the Kentucky Board of Medical Licensure;

(k)";

On page 3, line 19, by deleting "***(j)***" and inserting "***(l)***" in lieu thereof; and

On page 4, by deleting lines 20 through 25 in their entirety, and inserting the following in lieu thereof:

"***(6) Data obtained through a trauma registry or other data collected pursuant to Sections 1 to 4 of this Act shall be confidential and for use solely by the Department for Public Health, the Office of Trauma Care and its advisory council, and persons or public or private entities that participate in data collection for the trauma registry. Personal identifying information that is collected for use in the trauma registry shall not be subject to discovery or introduction into evidence in any civil action.***".

Floor Amendment No. 1 to **HB 210**, by Representative Floyd:

HB 210, On page 13, after line 17, insert the following:

"Section 3. KRS 157.3175 is amended to read as follows:

(1) ~~[Beginning with the 1990-91 school year,]~~ It shall be the responsibility of each local school district to assure that a developmentally appropriate half-day preschool education program is provided for each child ~~[who is four (4) years of age by October 1 of each year and]~~ at risk of educational failure ***as follows:***

(a) Prior to the 2008-2009 school year, for each child four (4) years of age by October 1 of each year; and

(b) Beginning with the 2008-2009 school year, for each child (4) years of age by August 1 of each year. ~~[Any school district which can show a lack of facilities to comply with this section may apply for an exemption to delay implementation until 1991-92.]~~

(2) All other four (4) year old children shall be served to the extent placements are available.

(3) The Kentucky Board of Education, upon the recommendation of the ***commissioner of education***~~[chief state school officer]~~, shall adopt administrative regulations establishing the guidelines for the program. Administrative regulations shall establish eligibility criteria, program guidelines, and standards for personnel.

(4)~~[(2)]~~ "Developmentally appropriate preschool program" means a program which focuses on the physical, intellectual, social, and emotional development of young children. The preschool program shall help children with their interpersonal and socialization skills.

(5)~~[(3)]~~ Funds appropriated by the General Assembly for the preschool education programs shall be granted to local school districts according to a grant allotment system approved by the Kentucky Board of Education. Children who are at risk shall be identified based on the Federal School Lunch Program eligibility criteria for free lunch. Appropriations shall be separate from all other funds appropriated to the Department of Education.

(6)~~[(4)]~~ The ***commissioner of education***~~[chief state school officer]~~ shall receive and review proposals from local school districts for grants to operate or oversee the operation of developmentally appropriate preschool education programs. Districts may submit proposals for implementing new services, enhancing existing preschool education services, or contracting for services. In designing a local early childhood education program, each district shall work with existing preschool programs to avoid duplication of programs and services, to avoid supplanting federal funds, and to maximize Head Start funds in order to serve as many four (4) year old children as possible.

(7)~~[(5)]~~ Each program proposal shall include, at a minimum:

(a) A description of the process conducted by the district to assure that the parents or guardians of all eligible participants have been made aware of the program and of their right to participate;

(b) A description of the planned educational programming and related services;

(c) The estimated number of children participating in the program;

(d) Strategies for involving children with disabilities;

(e) Estimated ratio of staff to children with the maximum being one (1) adult for each ten (10) children;

(f) The estimated percentage of children participating in the program who are at risk of educational failure;

(g) Information on the training and qualifications of program staff and documentation that the staff meet required standards;

(h) A budget and per-child expenditure estimate;

(i) A plan to facilitate active parental involvement in the preschool program, including provisions for complementary parent education when appropriate;

(j) Facilities and equipment which are appropriate for young children;

(k) The days of the week and hours of a day during which the program shall operate;

(l) A plan for coordinating the program with existing medical and social services, including a child development and health screening component;

(m) Assurances that participants shall receive breakfast or lunch;

(n) Program sites which meet state and local licensure requirements;

(o) A plan for coordinating program philosophy and activities with the local district's primary school program;

(p) An evaluation component; and

(q) Certification from the Head Start director that the Head Start program is fully utilized pursuant to subsection (4) of this section.

(8)~~[(6)]~~ Programs shall reflect an equitable geographic distribution representative of all areas of the Commonwealth.

Section 4. KRS 157.226 is amended to read as follows:

(1) ~~[Effective with the 1991-92 school year,]~~ Any child who has been identified as disabled in accordance with the Individuals with Disabilities Education Act, Public Law 101-476, or as exceptional by KRS 157.200(1)(a) to (m) and corresponding administrative regulations, ~~[and who is three (3) or four (4) years of age, or who may become five (5) years of age after October 1 of the current year,]~~ shall be eligible for a free and appropriate preschool education and related services ***as follows:***

(a) Prior to the 2008-2009 school year, for each child who is three (3) or four (4) years of age, or who may become five (5) years of age after October 1 of the current year; and

(b) Beginning with the 2008-2009 school year, for each child who is three (3) or four (4) years of age, or who may become five (5) years of age after August 1 of the current year.

(2) The General Assembly shall provide funds to be used for preschool education programs and related services for children with disabilities. Appropriations shall be separate from all other state funds appropriated to the Department of Education and shall be administered in accordance with applicable state statutes and administrative regulations and the Individuals with Disabilities Education Act, Public Law 101-476.

(3) Eligible local school districts shall receive funds based on the number of appropriately identified preschool children with disabilities being served on December 1 of the prior year. Program funding shall be adjusted proportionately when enrollment data in any district for the first two (2) months of the current school year is more than five percent (5%) above or below the number of children being served in the previous year. A supplemental enrollment count shall be taken after December 1 to allow partial funding for children with disabilities who become three (3) years of age after December 1 and consequently begin to receive services after that date. Local school districts may develop cooperative arrangements with other school districts or organizations in accordance with KRS 157.280.

(4) The Kentucky Board of Education shall adopt administrative regulations related to the administration and supervision of programs, eligibility criteria, personnel requirements, and the allocation and use of funds.

Section 5. KRS 158.030 is amended to read as follows:

"Common school" means an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a certified teacher for a minimum school term as defined by KRS 158.070 and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6) years of age by October 1, shall attend public school or qualify for an exemption as provided by KRS 159.030.

(1) Prior to the 2008-2009 school year, any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a primary school program, as defined in KRS 158.031, and may advance through the primary program without regard to age in accordance with KRS 158.031(6)***; and***

(2) Beginning with the 2008-2009 school year, any child who is five (5) years of age, or who may become five (5) years of age by August 1, may enter a primary school program, as defined in KRS 158.031, and may advance through the primary program without regard to age in accordance with KRS 158.031(6).".

Floor Amendment No. 2 Title to **HB 210**, by Representative Floyd:

HB 210, Amend title to read "AN ACT relating to education.".

Floor Amendment No. 5 to **HB 64**, by Representative Floyd:

HB 64, On page 11, after line 13, insert the following:

"Section 8. KRS 157.3175 is amended to read as follows:

(1) ~~[Beginning with the 1990-91 school year,]~~ It shall be the responsibility of each local school district to assure that a developmentally appropriate half-day preschool education program is provided for each child ~~[who is four (4) years of age by October 1 of each year and]~~ at risk of educational failure ***as follows:***

(a) Prior to the 2008-2009 school year, for each child four (4) years of age by October 1 of each year; and

(b) Beginning with the 2008-2009 school year, for each child (4) years of age by August 1 of each year. ~~[Any school district which can show a lack of facilities to comply with this section may apply for an exemption to delay implementation until 1991-92.]~~

(2) All other four (4) year old children shall be served to the extent placements are available.

(3) The Kentucky Board of Education, upon the recommendation of the ***commissioner of education***~~[chief state school officer]~~, shall adopt administrative regulations establishing the guidelines for the program. Administrative regulations shall establish eligibility criteria, program guidelines, and standards for personnel.

(4)~~[(2)]~~ "Developmentally appropriate preschool program" means a program which focuses on the physical, intellectual, social, and emotional development of young children. The preschool program shall help children with their interpersonal and socialization skills.

(5)~~[(3)]~~ Funds appropriated by the General Assembly for the preschool education programs shall be granted to local school districts according to a grant allotment system approved by the Kentucky Board of Education. Children who are at risk shall be identified based on the Federal School Lunch Program eligibility criteria for free lunch. Appropriations shall be separate from all other funds appropriated to the Department of Education.

(6)~~[(4)]~~ The ***commissioner of education***~~[chief state school officer]~~ shall receive and review proposals from local school districts for grants to operate or oversee the operation of developmentally appropriate preschool education programs. Districts may submit proposals for implementing new services, enhancing existing preschool education services, or contracting for services. In designing a local early childhood education program, each district shall work with existing preschool programs to avoid duplication of programs and services, to avoid supplanting federal funds, and to maximize Head Start funds in order to serve as many four (4) year old children as possible.

(7)~~[(5)]~~ Each program proposal shall include, at a minimum:

(a) A description of the process conducted by the district to assure that the parents or guardians of all eligible participants have been made aware of the program and of their right to participate;

(b) A description of the planned educational programming and related services;

(c) The estimated number of children participating in the program;

(d) Strategies for involving children with disabilities;

(e) Estimated ratio of staff to children with the maximum being one (1) adult for each ten (10) children;

(f) The estimated percentage of children participating in the program who are at risk of educational failure;

(g) Information on the training and qualifications of program staff and documentation that the staff meet required standards;

(h) A budget and per-child expenditure estimate;

(i) A plan to facilitate active parental involvement in the preschool program, including provisions for complementary parent education when appropriate;

(j) Facilities and equipment which are appropriate for young children;

(k) The days of the week and hours of a day during which the program shall operate;

(l) A plan for coordinating the program with existing medical and social services, including a child development and health screening component;

(m) Assurances that participants shall receive breakfast or lunch;

(n) Program sites which meet state and local licensure requirements;

(o) A plan for coordinating program philosophy and activities with the local district's primary school program;

(p) An evaluation component; and

(q) Certification from the Head Start director that the Head Start program is fully utilized pursuant to subsection (4) of this section.

(8)~~[(6)]~~ Programs shall reflect an equitable geographic distribution representative of all areas of the Commonwealth.

Section 9. KRS 157.226 is amended to read as follows:

(1) ~~[Effective with the 1991-92 school year,]~~ Any child who has been identified as disabled in accordance with the Individuals

with Disabilities Education Act, Public Law 101-476, or as exceptional by KRS 157.200(1)(a) to (m) and corresponding administrative regulations, ~~[and who is three (3) or four (4) years of age, or who may become five (5) years of age after October 1 of the current year,]~~ shall be eligible for a free and appropriate preschool education and related services ***as follows:***

(a) Prior to the 2008-2009 school year, for each child who is three (3) or four (4) years of age, or who may become five (5) years of age after October 1 of the current year; and

(b) Beginning with the 2008-2009 school year, for each child who is three (3) or four (4) years of age, or who may become five (5) years of age after August 1 of the current year.

(2) The General Assembly shall provide funds to be used for preschool education programs and related services for children with disabilities. Appropriations shall be separate from all other state funds appropriated to the Department of Education and shall be administered in accordance with applicable state statutes and administrative regulations and the Individuals with Disabilities Education Act, Public Law 101-476.

(3) Eligible local school districts shall receive funds based on the number of appropriately identified preschool children with disabilities being served on December 1 of the prior year. Program funding shall be adjusted proportionately when enrollment data in any district for the first two (2) months of the current school year is more than five percent (5%) above or below the number of children being served in the previous year. A supplemental enrollment count shall be taken after December 1 to allow partial funding for children with disabilities who become three (3) years of age after December 1 and consequently begin to receive services after that date. Local school districts may develop cooperative arrangements with other school districts or organizations in accordance with KRS 157.280.

(4) The Kentucky Board of Education shall adopt administrative regulations related to the administration and supervision of programs, eligibility criteria, personnel requirements, and the allocation and use of funds.

Section 10. KRS 158.030 is amended to read as follows:

"Common school" means an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a certified teacher for a minimum school term as defined by KRS 158.070 and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6) years of age by October 1, shall attend public school or qualify for an exemption as provided by KRS 159.030.

(1) Prior to the 2008-2009 school year, any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a primary school program, as defined in KRS 158.031, and may advance through the primary program without regard to age in accordance with KRS 158.031(6)***; and***

(2) Beginning with the 2008-2009 school year, any child who is five (5) years of age, or who may become five (5) years of age by August 1, may enter a primary school program, as defined in KRS 158.031, and may advance through the primary program without regard to age in accordance with KRS 158.031(6).".

Floor Amendment No. 6 Title to **HB 64**, by Representative Floyd:

HB 64, Amend title to read "AN ACT relating to education.".

Floor Amendment No. 1 to **HB 234**, by Representative Westrom:

HB 234, On page 1, line 19, after "***child-care center***", by inserting the following: "***submitting a new application to be***".

Floor Amendment No. 3 to **HB 210**, by Representative Rasche:

HB 210, On page 10, line 11, after "***affirm***", by inserting "***, modify,***"; and

On page 11, between lines 12 and 13, by inserting the following:

"***12. The school district shall be responsible for the costs of the hearing officer and the administrative hearing.***"; and

On page 12, line 13, after "(9)", by deleting "***An***" and inserting "***A classified***" in lieu thereof.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 50, Representative Greer

HB 75, Representative Rollins

HB 152, Representatives DeWeese and Cherry

HB 156, Representative Santoro

HB 175, Representative Koenig

HB 187, Representative Henderson

HB 208, Representative Greer

HB 210, Representative Rollins

HB 222, Representative Rollins

HB 224, Representatives Greer, Higdon, C. Belcher, and L. Belcher

HB 229, Representative Couch

HB 238, Representative Rollins

HB 291, Representative Koenig

HB 296, Representative Koenig

HB 305, Representative Rollins

HB 310, Representative DeWeese

HB 357, Representative Osborne

HB 373, Representative Greer

HB 378, Representative Greer

HB 402, Representative Rollins

HB 445, Representatives Keene, Santoro, and Kerr

HB 460, Representatives Osborne and Palumbo

HB 465, Representative Rollins

HB 466, Representatives Nesler and Osborne

HB 476, Representatives C. Belcher and L. Belcher

HB 480, Representatives Palumbo and Osborne

HB 490, Representative Koenig

HB 500, Representative Denham

HB 514, Representative Denham

HB 523, Representative Tilley

HB 530, Representative Kerr

HB 546, Representatives Keene, Miller, Horlander, Firkins, Weston, Jenkins, and Burch

HB 547, Representatives Keene, Miller, Horlander, Firkins, Weston, Jenkins, and Burch

HB 549, Representatives Keene, Miller, Horlander, Brinkman, Firkins, Weston, Jenkins, Hoffman, Stein, and Pasley

HB 555, Representative Greer

HCR 148, Representative Rudy

HCR 159, Representative Adams

HCR 160, Representative Gooch

HJR 144, Representative Rader

HR 39, Representative Bratcher

Announcements

Budget Review Subcommittee on Justice and Judiciary, 10:00 a.m., Wednesday, February 21, 2007, Room 129

Committee on Agriculture and Small Business, 8:00 a.m., Wednesday, February 21, 2007

Committee on Judiciary, noon, Wednesday, February 21, 2007

Committee on Banking and Insurance, 10:00 a.m., Wednesday, February 21, 2007, Room 129

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Wednesday, February 21, 2007.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 21, 2007, was adopted by voice vote.

WEDNESDAY, FEBRUARY 21, 2007

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Kenneth Fleming, Newburg Church of Christ, Louisville, Kentucky, guest of Representative Owens.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representative Moore.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 20, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills were filed by the following:

Representative Moore moved that he be recorded as voting "Yea" on **HB 389**. Agreed.

Representative Wuchner moved that her vote be changed from "Yea" to "Nay" on **HB 212**. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 527, 544, 554, 557, 559, 568, 569, 573**

Banking and Insurance: **HB 529, SB 68**

Education: **HB 512, 558, 561, 562, 565, HCR 154**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 505, 547, 550, SB 159**

Health and Welfare: **HB 525, 533, 570**

Judiciary: **HB 503, 507, 515, 528, 531, 555, 564, HCR 159, HJR 145**

Labor and Industry: **SB 10**

Licensing and Occupations: **HB 546, 567, SB 30**

Local Government: **HB 526, 556**

Natural Resources and Environment: **HB 521, 543, HCR 160**

Seniors, Military Affairs and Public Safety: **HB 520**

State Government: **HB 535, 538, 563**

Transportation: **HB 524, 552, HCR 164**

House Floor: **HR 156, 157, 158, 161, 162**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 93, HB 289, HB 304, HB 350,** with Committee Substitute attached thereto, **HB 449,** with Committee Substitute attached thereto, **HB 540,** and **HCR 148** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 93, AN ACT relating to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.125 is amended to read as follows:

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(3) Cruelty to animals in the first degree is a Class D felony.

(4) Any person who has been convicted of, entered an Alford plea to, or pleaded guilty to cruelty to animals in the first degree shall forfeit ownership of the animal or animals and shall be prohibited from owning or possessing any animal of the same species for a period of two (2) years from the date of the conviction or plea.

Section 2. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish, or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(e) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;

(f) For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(g) In defense of self or another person against an aggressive or diseased animal;

(h) In defense of a domestic animal against an aggressive or diseased animal;

(i) For animal or pest control; or

(j) For any other purpose authorized by law.

(3) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

(5) Any person who has been convicted of, entered an Alford plea to, or pleaded guilty to cruelty to animals in the second degree shall forfeit ownership of the animal or animals and shall be prohibited from owning or possessing any animal of the same species for a period of two (2) years from the date of the conviction or plea.

Section 3. KRS 525.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires, "torture" means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(3) Torture of a dog or cat is a Class A misdemeanor for the first offense, and a Class D felony for the second and subsequent offenses.

(4) Nothing in this section shall apply to the killing or injuring of a dog or cat:

(a) In accordance with a license to hunt, fish, or trap;

(b) For humane purposes;

(c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;

(e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(f) In defense of self or another person against an aggressive or diseased dog or cat;

(g) In defense of a domestic animal against an aggressive or diseased dog or cat;

(h) For animal or pest control; or

(i) For any other purpose authorized by law.

(5) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(6) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

(7) Any person who has been convicted of, entered an Alford plea to, or pleaded guilty to torturing a dog or cat shall forfeit ownership of the dog or cat and shall be prohibited from owning or possessing a dog or cat for a period of two (2) years from the date of the conviction or plea.

HB 289, AN ACT relating to the Agricultural Development Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.707 is amended to read as follows:

(1) The Agricultural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, 61.870, and other applicable statutes.

(2) The board shall consist of ***sixteen (16)***[~~fifteen (15)~~] members as follows:

(a) ***Five (5)***[~~Four (4)~~] voting members or their designees, as follows:

1. The Governor of the Commonwealth of Kentucky, who shall serve as chair;
2. The Commissioner of the Kentucky Department of Agriculture, who shall serve as vice chair and shall serve as chair in the absence of the Governor;
3. The secretary of the Cabinet for Economic Development;[~~ and~~]
4. The director of the ***University of Kentucky*** Cooperative Extension Service; and
5. ***The president of Kentucky State University; and***

(b) Eleven (11) voting members appointed by the Governor, who shall be geographically distributed throughout the state and subject to confirmation by the House of Representatives and Senate as provided in KRS 11.160(2). The members shall be as follows:

1. Seven (7) active farmers, at least four (4) of whom shall be from counties that are substantially tobacco-impacted, as determined by a formula that includes tobacco income as a percentage of total personal income in the county, and at least two (2) of whom shall have experience in agricultural diversification;
2. One (1) representative of the Kentucky Farm Bureau;
3. One (1) representative of the Kentucky Chamber of Commerce, who shall be an agribusiness person;
4. One (1) attorney with farm experience and familiarity with agricultural policy; and
5. One (1) agricultural lender.

(3) The members appointed under subsection (2)(b)2. and 3. of this section shall be chosen from a list of three (3) nominees submitted to the Governor by each of the respective organizations.

(4) Consideration shall be given to racial and gender equity in the appointment of board members.

(5) The majority of the voting members shall be active farmers.

(6) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.

(7) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial

appointments shall be for staggered terms, as follows:

- (a) Two (2) members shall be appointed for one (1) year;
- (b) Three (3) members shall be appointed for two (2) years;
- (c) Three (3) members shall be appointed for three (3) years; and
- (d) Three (3) members shall be appointed for four (4) years.

(8) The Governor shall convene the first meeting of the board by August 1, 2000.

(9) The board shall meet monthly, or at the call of the chair or a majority of the voting members.

(10) A quorum of the board shall consist of ***nine (9)***[~~eight (8)~~] voting members. A majority of the voting members present may act upon matters before the board.

(11) The board shall be attached to the Office of the Governor for administrative purposes.

HB 304, AN ACT relating to motor vehicle fuel pricing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

A dealer who sells gasoline, diesel, or other fuel used in motor vehicles at retail to consumers shall sell the gasoline, diesel, and other fuel at a price denominated only in whole cents per unit of measurement and shall display the price only in whole cents on any signs and dispensing devices.

HB 350, AN ACT relating to agroterrorism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

(1) "Agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

- ***(a) Personal or commercial agricultural purposes;***
- ***(b) Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or***
- ***(c) The production, storage, or distribution of agricultural products;***

(2) "Agricultural product" means any farm product raised or produced as a result of being in the business of "agriculture," as defined by KRS 246.010; and

(3) "Agroterrorism" means the act of damaging or destroying any agricultural facility or agricultural product with the intent to deprive the public of a substantial source of food or water. The offense of attempting, facilitating, or soliciting agroterrorism shall bring the same punishment as the act of agroterrorism.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Any person who commits an act of agroterrorism shall be liable for personal injury and for restitution for the value of the agricultural facility or agricultural product damaged or destroyed, as determined by a court of competent jurisdiction, plus interest, attorneys' fees, and reasonable court costs.

(2) In awarding damages under this section, the court shall consider:

- ***(a) The actual damages for personal injury;***
- ***(b) The actual damages to, or replacement cost of, the agricultural facility; and***
- ***(c) The market value of the agricultural product based on the value the agricultural product would have if it were ready for sale.***

Section 3. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any of the following:

(a) A weapon of mass destruction;

(b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

(c) Any knife other than an ordinary pocket knife or hunting knife;

(d) Billy, nightstick, or club;

(e) Blackjack or slapjack;

(f) Nunchaku karate sticks;

(g) Shuriken or death star; or

(h) Artificial knuckles made from metal, plastic, or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed;[~~and~~]

(18) "Weapon of mass destruction" means:

(a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;

(b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

(c) Any weapon involving a disease organism; or

(d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life***;***

(19) (a) Only in an act of agroterrorism, "agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

1. Personal or commercial agricultural purposes;

2. Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or

3. The production, storage, or distribution of agricultural products;

(b) An agricultural facility is considered "property" as the term is used in KRS Chapter 512;

(20) Only in an act of agroterrorism, "agricultural product" means any farm product raised or produced as a result of being in the business of "agriculture," as defined by KRS 246.010. An agricultural product is considered "property" as the term is used in KRS Chapter 512, and is considered "personal property" as the term is used in KRS Chapter 513; and

(21) "Agroterrorism" means the act of damaging or destroying any agricultural facility or agricultural product with the intent to deprive the public of a substantial source of food or water. The offense of attempting, facilitating, or soliciting

agroterrorism shall bring the same punishment as the act of agroterrorism.

Section 4. KRS 512.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.

(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.

(3) "Property" includes ***but is not limited to agricultural facilities, agricultural products, and*** cattle.

Section 5. KRS 513.010 is amended to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

"Building," in addition to its ordinary meaning, specifically includes any dwelling, ***agricultural facility,*** hotel, commercial structure, automobile, truck, watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any structure with a valid certificate of occupancy.

Section 6. KRS 513.060 is amended to read as follows:

(1) ***As used in this section, "personal property" includes agricultural products.***

(2) A person is guilty of burning personal property to defraud an insurer when, with intent to defraud or injure an insurer, he:

(a) Sets fire to, burns, or causes to be burned; or

(b) Aids, counsels, or procures the burning of any of the goods, wares, merchandise, or other personal property of himself or another, that is insured at the time against loss or damage by fire.

(3)[~~(2)~~] Burning personal property to defraud an insurer is a Class D felony.

Section 7. The following KRS sections are repealed:

437.410 Definitions.
437.415 Findings of the General Assembly.
437.420 Offenses.
437.429 Penalties.

The Committee Substitute to **HB 350** is as follows:

HB 350, AN ACT relating to agroterrorism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

(1) "Agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

(a) Personal or commercial agricultural purposes;

(b) Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or

(c) The production, storage, or distribution of agricultural products;

(2) "Agricultural product" means any farm product raised or produced as a result of being in the business of "agriculture," as defined by KRS 246.010; and

(3) "Agroterrorism" means the act of using any biological, chemical, or radiological agent against, or of damaging or destroying, any agricultural facility or agricultural product with the intent to deprive the public of a substantial source of food or water or adversely affect the agriculture industry, the economy, or the public. The offense of attempting, facilitating, or soliciting agroterrorism shall bring the same punishment as the act of agroterrorism.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Any person who commits an act of agroterrorism shall be liable for personal injury and for restitution for the value of the agricultural facility or agricultural product damaged or destroyed, as determined by a court of competent jurisdiction, plus interest, attorneys' fees, and reasonable court costs.

(2) In awarding damages under this section, the court shall consider:

(a) The actual damages for personal injury;

(b) The actual damages to, or replacement cost of, the agricultural facility; and

(c) The market value of the agricultural product based on the value the agricultural product would have if it were ready for sale.

Section 3. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any of the following:

(a) A weapon of mass destruction;

(b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

(c) Any knife other than an ordinary pocket knife or hunting knife;

(d) Billy, nightstick, or club;

(e) Blackjack or slapjack;

(f) Nunchaku karate sticks;

(g) Shuriken or death star; or

(h) Artificial knuckles made from metal, plastic, or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed;~~[and]~~

(18) "Weapon of mass destruction" means:

(a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;

(b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

(c) Any weapon involving a disease organism; or

(d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life***;***

(19) (a) Only in an act of agroterrorism, "agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

1. Personal or commercial agricultural purposes;

2. Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or

3. The production, storage, or distribution of agricultural products;

(b) An agricultural facility is considered "property" as the term is used in KRS Chapter 512;

(20) Only in an act of agroterrorism, "agricultural product" means any farm product raised or produced as a result of being in the business of "agriculture," as defined by KRS 246.010. An agricultural product is considered "property" as the term is used in KRS Chapter 512, and is considered "personal property" as the term is used in KRS Chapter 513; and

(21) "Agroterrorism" means the act of using any biological, chemical, or radiological agent against, or of damaging or destroying, any agricultural facility or agricultural product with the intent to deprive the public of a substantial source of food or water or adversely affect the agriculture industry, the economy, or the public. The offense of attempting, facilitating, or soliciting agroterrorism shall bring the same punishment as the act of agroterrorism.

Section 4. KRS 512.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.

(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.

(3) "Property" includes ***but is not limited to agricultural facilities, agricultural products, and*** cattle.

Section 5. KRS 513.010 is amended to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

"Building," in addition to its ordinary meaning, specifically includes any dwelling, ***agricultural facility,*** hotel, commercial structure, automobile, truck, watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any structure with a valid certificate of occupancy.

Section 6. KRS 513.060 is amended to read as follows:

(1) As used in this section, "personal property" includes agricultural products.

(2) A person is guilty of burning personal property to defraud an insurer when, with intent to defraud or injure an insurer, he:

(a) Sets fire to, burns, or causes to be burned; or

(b) Aids, counsels, or procures the burning of any of the goods, wares, merchandise, or other personal property of himself or another, that is insured at the time against loss or damage by fire.

(3)[~~(2)~~] Burning personal property to defraud an insurer is a Class D felony.

Section 7. The following KRS sections are repealed:

437.410 Definitions.

437.415 Findings of the General Assembly.

437.420 Offenses.

437.429 Penalties.

HB 449, AN ACT relating to weights and measures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 363.510 is amended to read as follows:

When used in KRS 363.520 to 363.850:

(1) "Department" means the Kentucky Department of Agriculture.

(2) "Commissioner" means the Commissioner of Agriculture.

(3) "Division" means the Division of Regulation and Inspection.

(4) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any ***of the***[~~such~~] instruments and devices, ***including instruments and devices used to measure internal moisture or density levels in bulk tobacco packages,*** except that the term shall not include meters for the measurement of electricity, gas (natural or manufactured), or water when they are operated in a public utility system. Electricity, gas, and water meters are specifically excluded from the purview of KRS 363.510 to 363.850, and none of the provisions of KRS 363.510 to 363.850 shall apply to those meters or to any appliances or accessories associated with those meters.

(5) "Sell" and "sale" mean barter and exchange.

(6) "Director" means the state director of the Division of Regulation and Inspection.

(7) "Inspector" means a state inspector of weights and measures.

(8) "Sealer" and "deputy sealer" mean, respectively, a sealer of weights and measures and a deputy sealer of weights and measures of a city of the first, second, or third class.

(9) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of the State of Kentucky, and the phrase "introduced into intrastate commerce" defines the time and place at which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(10) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive of any auxiliary shipping container enclosing packages that individually conform to the requirements of KRS 363.510 to 363.850. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be considered a commodity in package form.

(11) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

(12) "Nonconsumer package" or "package of nonconsumer commodity" means any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(13) (a) "Barrel," when used in connection with fermented liquor, means a unit of thirty-one (31) gallons.

(b) "Ton" means a unit of two thousand (2,000) pounds avoirdupois weight.

(c) "Cord," when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of one hundred twenty-eight (128) cubic feet when the wood is ranked and well stowed.

(14) "Weight," as used in connection with any commodity, means net weight. If any commodity is sold on the basis of weight, the net weight of the commodity shall be used, and all contracts concerning commodities shall use net weight as their basis of weight.

The Committee Substitute to **HB 449** is as follows:

HB 449, AN ACT relating to weights and measures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 363.510 is amended to read as follows:

When used in KRS 363.520 to 363.850:

(1) "Department" means the Kentucky Department of Agriculture.

(2) "Commissioner" means the Commissioner of Agriculture.

(3) "Division" means the Division of Regulation and Inspection.

(4) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any ***of the***[~~such~~] instruments and devices***. The term shall include instruments and devices used to measure internal moisture or density levels in unprocessed bulk tobacco, if that moisture or density determination is used as a condition of sale or as part of a contractual sales agreement.***[~~, except that~~] The term shall not include meters for the measurement of electricity, gas (natural or manufactured), or water when they are operated in a public utility system. Electricity, gas, and water meters are specifically excluded from the purview of KRS 363.510 to 363.850, and none of the provisions of KRS 363.510 to 363.850 shall apply to those meters or to any appliances or accessories associated with those meters.

(5) "Sell" and "sale" mean barter and exchange.

(6) "Director" means the state director of the Division of Regulation and Inspection.

(7) "Inspector" means a state inspector of weights and measures.

(8) "Sealer" and "deputy sealer" mean, respectively, a sealer of weights and measures and a deputy sealer of weights and measures of a city of the first, second, or third class.

(9) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of the State of Kentucky, and the phrase "introduced into intrastate commerce" defines the time and place at which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(10) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive of any auxiliary shipping container enclosing packages that individually conform to the requirements of KRS 363.510 to 363.850. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be considered a commodity in package form.

(11) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

(12) "Nonconsumer package" or "package of nonconsumer commodity" means any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(13) (a) "Barrel," when used in connection with fermented liquor, means a unit of thirty-one (31) gallons.

(b) "Ton" means a unit of two thousand (2,000) pounds avoirdupois weight.

(c) "Cord," when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of one hundred twenty-eight (128) cubic feet when the wood is ranked and well stowed.

(14) "Weight," as used in connection with any commodity, means net weight. If any commodity is sold on the basis of weight, the net weight of the commodity shall be used, and all contracts concerning commodities shall use net weight as their basis of weight.

HB 540, AN ACT relating to reference cigarettes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

(2) "Manufacturer" means any person who manufactures or produces cigarettes, snuff, or other tobacco products within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" means a sale to any person for any other purpose other than resale.

(5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. ***Cigarettes shall not mean reference cigarettes.***

(6) "Reference cigarettes" means cigarettes made by a manufacturer specifically for a state public university to be held by the university until sale or transfer to a laboratory, hospital, medical center, institute, college or university, manufacturer, or other institution. A reference cigarette package shall carry a marking labeling the contents as research cigarettes to be used only for tobacco-health research and experimental purposes, which shall not be offered for sale, sold, or distributed to consumers.

(7) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, other tobacco products, or snuff, and distribution in any manner or by any means whatsoever.

(8)[~~(7)~~] "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.

(9)[~~(8)~~] "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular.

(10)[~~(9)~~] "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes, other tobacco products, or snuff purchased by the wholesaler directly from the manufacturer on which the tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes, other tobacco products, or snuff.

(11)[~~(10)~~] "Nonresident wholesaler" means any person who purchases cigarettes, other tobacco products, or snuff directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.

(12)[~~(11)~~] "Sub-jobber" means any person who purchases cigarettes, other tobacco products, or snuff from a wholesaler licensed under KRS 138.195 on which the tax imposed by KRS 138.140 has been paid and makes them available to

retailers for resale. No person shall be deemed to make cigarettes, other tobacco products, or snuff available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes, other tobacco products, or snuff for resale in the regular course of business.

(13)[~~(12)~~] "Vending machine operator" means any person who operates one (1) or more cigarette, other tobacco products, or snuff vending machines.

(14)[~~(13)~~] "Transporter" means any person transporting untax-paid cigarettes, other tobacco products, or snuff obtained from any source to any destination within this state, other than cigarettes, other tobacco products, or snuff transported by the manufacturer thereof.

(15)[~~(14)~~] "Unclassified acquirer" means any person in this state who acquires cigarettes, other tobacco products, or snuff from any source on which the tax imposed by KRS 138.140 has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.

(16)[~~(15)~~] "Other tobacco products" means:

(a) Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco;

(b) Cavendish, plug and twist tobacco, fine-cut, and other chewing tobacco; or

(c) Shorts, dry snuff, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking. "Other tobacco products" does not include cigarettes as defined in subsection (5) of this section, ***reference cigarettes,*** or moist snuff taxed under the provisions of KRS 138.140(5).

(17)[~~(16)~~] "Wholesale sale" means a sale made for the purpose of resale in the regular course of business.

(18)[~~(17)~~] "Cigarette paper" means paper or a similar material suitable for use by consumers to wrap or roll tobacco into the form of a cigarette.

Section 2. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "Commissioner" means the commissioner of the Department of Revenue of the Commonwealth of Kentucky.

(3) "Department" means the Department of Revenue.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130*(12)*[~~(11)~~], broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 3. This Act takes effect July 1, 2007.

HCR 148, A CONCURRENT RESOLUTION encouraging the Kentucky Department of Agriculture to promulgate regulations to allow certain equine health certificates and permits to coincide.

WHEREAS, while Kentucky is known worldwide for its thoroughbred and standardbred horses, it also has a vibrant and dynamic recreation and exhibition horse industry; and

WHEREAS, a recent American Horse Council Foundation study showed the horse industry produced an economic impact in Kentucky totaling over $1.2 billion from showing and recreation; and

WHEREAS, the study further revealed there are almost 190,000 horses in Kentucky representing the showing and recreation segment of the industry; and

WHEREAS, exhibiting horses in shows, trail rides, and rodeos is important, not only for those thousands of people involved, but to cities and towns hosting the events across the state; and

WHEREAS, equine events and exhibitions attract out-of-state guests to Kentucky, both as participants in the events, but also as fans of the activities, particularly in the summertime; and

WHEREAS, the Kentucky Department of Agriculture plays a significant role in ensuring that infectious diseases are not allowed to take hold as show and exhibition horses are moved to venues throughout the state; and

WHEREAS, certain equine health certificates and permits such as the Kentucky certificate of veterinary inspection (CVI) and equine infectious anemia (EIA) test do not coincide, but could do so; and

WHEREAS, it would pose no significant additional health risk for the Kentucky intrastate CVI permit to be valid for a year, allowing it to correspond with the EIA permit, and eliminating some costly and time-consuming renewals that may occur during the recreation and exhibition season; and

WHEREAS, Kentucky has joined the voluntary regional Equine Interstate Movement Permit Program (Passport Program), which allows interstate movement of horses to take place, so long as health certificates are valid; and

WHEREAS, because Kentucky has not implemented the Passport Program, other states' equine CVI health permits are valid for only 30 days in the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly encourages the Kentucky Department of Agriculture to act expeditiously in promulgating the regulations necessary to allow the CVI permit to be in effect for a year, instead of the current duration of 150 days.

Section 2. The General Assembly urges the Kentucky Department of Agriculture to take the steps necessary to become a participating member of the equine Passport Program, thus allowing other states' equine certificates of veterinary inspection to be valid for six months in Kentucky.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Honorable Richie Farmer, Commissioner, Kentucky Department of Agriculture, for his review.

The Committee on Licensing and Occupations reported **HB 65,** with Committee Substitute attached thereto, **HB 86,** with Committee Substitute attached thereto, **HB 156,** with Committee Substitute attached thereto, **HB 259,** with Committee Substitute attached thereto, **HB 310,** with Committee Substitute attached thereto, **HB 341,** and **HB 391** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 65, AN ACT relating to real estate brokerage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.085 is amended to read as follows:

(1) All actively licensed agents except those licensees exempt under KRS 324.046(5), shall successfully complete six (6) classroom hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law. The commission shall promulgate administrative regulations to establish procedures for implementing this requirement.

(2) ***Within eighteen (18) months after the issuance of his or her sales associate license, an actively licensed sales associate shall complete a course approved by the commission consisting of thirty (30) hours of education, with a curriculum focusing on legal fundamentals and practical applications in the sale or management of property for others. The commission shall promulgate administrative regulations to determine the course content, instructor qualification criteria, and other components necessary to implement this requirement.***

(3) In order to qualify to teach continuing education courses, all continuing education instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.

Section 2. KRS 324.160 is amended to read as follows:

(1) The commission may order any or all of the following sanctions for violation of subsections (4) to (7) of this section:

(a) Suspension of any license;

(b) Revocation of any license;

(c) Levy of fines not to exceed ***two thousand five hundred dollars ($2,500)***[~~one thousand dollars ($1,000)~~];

(d) Placing of any licensee on probation for a period of up to twelve (12) months;

(e) Requiring successful completion of academic credit hours or additional credit hours in real estate courses from an accredited institution or approved real estate school; or

(f) Issuing a formal or informal reprimand.

(2) A canceled license may be renewed if the licensee pays all necessary fees and meets all other active licensure requirements within one (1) year of the cancellation date. No licensee whose license is canceled shall engage in real estate brokerage during the period of cancellation or receive any compensation for real estate brokerage unless the compensation was earned prior to the effective date of the cancellation.

(3) No licensee whose license is suspended shall engage in real estate brokerage or receive any compensation for real estate brokerage unless the compensation was earned prior to the suspension period.

(4) The commission shall impose sanctions set out in subsection (1) of this section against a licensee for:

(a) Obtaining a license through false or fraudulent representation;

(b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;

(c) Making any false promises of a character likely to influence, persuade, or induce;

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;

1. A real estate licensee shall not directly or indirectly buy property listed with him or her or with the broker with whom the licensee is affiliated, nor acquire an interest therein, without first indicating in writing on the offer to purchase his or her status as a licensee;

2. Before a licensee becomes a party to a contract to purchase real property, the licensee shall disclose his or her status as a licensee to all parties to the transaction, in writing, on the sales contract or on the offer to purchase;

3. Before a licensee sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose, in writing, any interest in the property to all parties to the transaction;

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker in accordance with a compensation agreement between them. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of the principal broker with whom the licensee is affiliated;

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment;

(i) Paying valuable consideration to any person for services performed in violation of this chapter;

(j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony or of a misdemeanor involving sexual misconduct the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction suspending the imposition of sentence;

(k) Failing to report a conviction, plea of guilty, or an "Alford" plea to a felony or a misdemeanor involving sexual misconduct to the commission;

(l) Soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice;

(m) Offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate;

(n) Acting in the dual capacity of licensee and undisclosed principal in any real estate transaction;

(o) Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;

(p) Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property, or attempting to obtain a brokerage agreement with a consumer knowing that the consumer had a written outstanding contract granting exclusive agency with another real estate broker;

(q) Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;

(r) Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;

(s) Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;

(t) Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020(4);

(u) Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;

(v) Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or

(w) Gross negligence.

(5) Any conduct constituting a violation of the Federal Fair Housing Act, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (4)(v) of this section.

(6) No unlawful act or violation of any provision of this chapter by any affiliated licensee of the principal broker shall be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation and did not prevent it. The principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. The failure of a broker or his ***or her*** designated manager to exercise adequate supervision of the licensed affiliates shall constitute a violation of this chapter.

(7) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

The Committee Substitute to **HB 65** is as follows:

HB 65, AN ACT relating to real estate brokerage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.085 is amended to read as follows:

(1) All actively licensed agents except those licensees exempt under KRS 324.046(5), shall successfully complete six (6) classroom hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law. The commission shall promulgate administrative regulations to establish procedures for implementing this requirement.

(2) ***Within twelve (12) months after the issuance of his or her sales associate license, an actively licensed sales associate shall complete a course approved by the commission consisting of fifteen (15) hours of education, with a curriculum focusing on legal fundamentals and practical applications in the sale or management of property for others. The commission shall promulgate administrative regulations to determine the course content, instructor qualification criteria, and other components necessary to implement this requirement.***

(3) In order to qualify to teach continuing education courses, all continuing education instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.

HB 86, AN ACT relating to real estate brokerage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a broker or sales associate in a manner to safeguard the interest of the public, and only after satisfactory proof of qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness, and good reputation of any applicant for a license, each applicant shall pass a written examination conducted by the commission, or its authorized representative. The examination shall be of the scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a broker or sales associate in a manner to protect the interests of the public. However, an examination shall not be required for the renewal of any present or future license, unless the license has been revoked, suspended, or is allowed to expire without renewal for a period of more than one (1) year.

(3) The commission shall hold examinations at the times and places it determines, and an examination fee shall be collected from each applicant to defray the expenses of holding the examinations.

(4) The commission may, by the promulgation of administrative regulations, require all licensure applicants to submit to a criminal record check for which the applicant shall be responsible for the payment of any fees incurred.

(5) Applicants shall be subject to a national criminal history check through the Federal Bureau of Investigation. The commission shall request the criminal history check and shall provide the applicant's fingerprints to the Kentucky State Police for submission to the Federal Bureau of Investigation to search for information regarding the applicant in the National Crime Information Center or its successor entity. The applicant shall:

(a) Authorize release of the results of the criminal history check to the real estate commission;

(b) Pay the actual cost of the fingerprinting and criminal history check, if any; and

(c) Complete the criminal history check within the ninety (90) calendar days prior to the date the license application is received by the commission.

Section 2. KRS 324.111 is amended to read as follows:

(1) A principal broker shall maintain an escrow account or accounts, separate from the individual or office account, in which all contract deposits and money belonging to others shall be deposited without unreasonable delay. The escrow accounts shall be maintained within the State of Kentucky and shall be identified to the commission in writing. ***Each escrow account shall be maintained in a bank that has agreed to notify the commission in writing during the normal course of business in the event that any overdraft occurs in the account for any reason other than service charges instituted by the bank.***

(2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the person agreed to in writing by all parties.

(3) No checks shall be drawn against uncollected deposits in the escrow account.

(4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.

(5) Upon licensure and each renewal, the principal broker shall sign a permit giving the commission the permission to audit all his ***or her*** escrow accounts.

(6) Upon being notified that one (1) or more parties to a contract intends not to perform, the broker may release the contract deposit as provided in the contract or if no provision is made in the contract, the broker may initiate the release process. The release process shall require the broker to notify all parties at their last known address by certified mail that the contract deposit shall be distributed to the parties specified in the letter unless all parties enter into a written mutual release, or unless one (1) or more of the parties initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit to the party identified in the certified letter without penalty under this section and without civil liability in the courts of the Commonwealth of Kentucky.

(7) All principal brokers whose companies engage in property management shall maintain property management accounts separate from all other accounts or specifically indicate in all escrow records if funds are property management funds.

(8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.

(9) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct emergency procedures as authorized by subsection (1) of Section 3 of this Act.

Section 3. KRS 324.150 is amended to read as follows:

(1) The commission or its staff may on its own initiative investigate the actions of any licensee or any person who acts in that capacity. On the verified written complaint of any person, the commission shall investigate the actions of any person who

assumes to act in that capacity, if the complaint, together with any evidence presented in connection with it, alleges a prima facie case that a violation set out in KRS 324.160 has been committed. After the investigation, the commission may order a hearing and, in appropriate cases, take disciplinary action against any licensee who is found in violation of KRS 324.160. ***The commission may conduct an emergency hearing when alleged escrow account violations warrant emergency action. The commission shall promulgate administrative regulations to describe the specific circumstances and allegations that authorize emergency action. The emergency hearing shall be conducted in accordance with the provisions of KRS Chapter 13B as it relates to emergency orders and emergency hearings.***

(2) To investigate allegations of practices violating the provisions of this chapter, the commission may:

(a) Issue subpoenas to compel attendance of witnesses and the production of books, papers, documents, or other evidence;

(b) Administer oaths;

(c) Review evidence;

(d) Enter the office or branch office of any principal broker for the purpose of inspecting all documents required by the commission to be maintained in the principal broker's office or branch office which relate to the allegations of practices violating the provisions of this chapter;

(e) Examine witnesses; and

(f) Pay appropriate witness fees.

Section 4. KRS 324.151 is amended to read as follows:

(1) All complaints against licensees shall be submitted to the commission on forms furnished by the commission. The complaint shall state facts which, if true, would constitute a prima facie case that the licensee has violated the provisions of KRS 324.160. If the complaint does not constitute a prima facie case, the commission shall allow the complainant ten (10) days to revise and supplement the complaint in order to cure any defect. If the complainant fails to respond within ten (10) days or if the revised and supplemented complaint does not constitute a prima facie case that the licensee has violated the provisions of KRS 324.160, the commission shall dismiss the matter without requiring the licensee to file or serve a response.

(2) If the complaint constitutes a prima facie case that a licensee has violated the provisions of KRS 324.160, a copy of the complaint, exhibits attached thereto, and any subsequent pleadings, shall be served on the licensee, by the commission, at the licensee's last known address and shall show certification that there has been service by writing to the last known address.

(3) If the commission serves the complaint upon the licensee, the licensee shall file with the commission an answer to the complaint, properly notarized, on forms secured from commission offices. The answer shall be returned to the commission within twenty (20) days. The licensee shall deliver to the complainant at his ***or her*** last known address a copy of the answer, exhibits attached thereto, and any subsequent pleadings. All further pleadings in the matter filed with the commission by either party shall show that a copy has been furnished to the opposing party or parties.

(4) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct emergency procedures as authorized by subsection (1) of Section 3 of this Act.

Section 5. KRS 324.160 is amended to read as follows:

(1) The commission may order any or all of the following sanctions for violation of subsections (4) to (7) of this section:

(a) Suspension of any license;

(b) Revocation of any license;

(c) Levy of fines not to exceed one thousand dollars ($1,000);

(d) Placing of any licensee on probation for a period of up to twelve (12) months;

(e) Requiring successful completion of academic credit hours or additional credit hours in real estate courses from an accredited institution or approved real estate school; or

(f) Issuing a formal or informal reprimand.

(2) A canceled license may be renewed if the licensee pays all necessary fees and meets all other active licensure requirements within one (1) year of the cancellation date. No licensee whose license is canceled shall engage in real estate brokerage during the period of cancellation or receive any compensation for real estate brokerage unless the compensation was earned prior to the effective date of the cancellation.

(3) No licensee whose license is suspended shall engage in real estate brokerage or receive any compensation for real estate brokerage unless the compensation was earned prior to the suspension period.

(4) The commission shall impose sanctions set out in subsection (1) of this section against a licensee for:

(a) Obtaining a license through false or fraudulent representation;

(b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;

(c) Making any false promises of a character likely to influence, persuade, or induce;

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;

  1. A real estate licensee shall not directly or indirectly buy property listed with him or her or with the broker with whom the licensee is affiliated, nor acquire an interest therein, without first indicating in writing on the offer to purchase his or her status as a licensee;

  2. Before a licensee becomes a party to a contract to purchase real property, the licensee shall disclose his or her status as a licensee to all parties to the transaction, in writing, on the sales contract or on the offer to purchase;

  3. Before a licensee sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose, in writing, any interest in the property to all parties to the transaction;

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker in accordance with a compensation agreement between them. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of the principal broker with whom the licensee is affiliated;

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment;

(i) Paying valuable consideration to any person for services performed in violation of this chapter;

(j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony or of a misdemeanor involving sexual misconduct the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction suspending the imposition of sentence;

(k) Failing to report a conviction, plea of guilty, or an "Alford" plea to a felony or a misdemeanor involving sexual misconduct to the commission;

(l) Soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice;

(m) [~~Offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate;~~

~~(n)~~]Acting in the dual capacity of licensee and undisclosed principal in any real estate transaction;

(n)[~~(o)~~] Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;

(o)[~~(p)~~] Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property, or attempting to obtain a brokerage agreement with a consumer knowing that the consumer had a written outstanding contract granting exclusive agency with another real estate broker;

(p)[~~(q)~~] Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;

(q)[~~(r)~~] Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;

(r)[~~(s)~~] Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;

(s)[~~(t)~~] Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020(4);

(t)[~~(u)~~] Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;

(u)[~~(v)~~] Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or

(v)[~~(w)~~] Gross negligence.

(5) Any conduct constituting a violation of the Federal Fair Housing Act, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (4)*(u)*[~~(v)~~] of this section.

(6) No unlawful act or violation of any provision of this chapter by any affiliated licensee of the principal broker shall be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation and did not prevent it. The principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. The failure of a broker or his ***or her*** designated manager to exercise adequate supervision of the licensed affiliates shall constitute a

violation of this chapter.

(7) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

Section 6. KRS 324.165 is amended to read as follows:

(1) No person shall:

(a) Solicit or request a referral fee from a real estate licensee unless that person introduced the business to the real estate licensee from whom the referral fee is sought and a contractual referral fee relationship exists between the person and the real estate licensee; or

(b) Threaten to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a client of a real estate licensee because of an agency relationship.

(2) No real estate licensee, relocation firm, or firm with a corporate relocation policy or benefits, or anyone on behalf of any licensee or firm, shall counsel a client of another real estate licensee regarding the manner in which the client may terminate or amend an existing listing contract, buyer agency agreement, or other agency relationship. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered a violation of this section, as long as the communication does not involve advice or encouragement regarding the manner in which the client may terminate or amend an existing agency relationship.

(3) Violation of this section by a broker or sales associate shall be considered improper conduct as referred to in KRS 324.160(4)***(u)***[~~(v)~~]. Violation of this section by unlicensed persons shall be subject to the penalties in KRS 324.990.

Section 7. KRS 324.170 is amended to read as follows:

(1) The commission shall, before denying an application for license or before ordering any disciplinary action against a licensee, order a hearing. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. If the applicant or licensee is a sales associate, the commission shall also notify the principal broker of the hearing by mailing notice by certified mail, return receipt requested, to the broker's last known business address. The commission shall order the presence of the principal broker or his ***or her*** designated representative at the hearing.

(2) All hearings shall be conducted by a quorum of the commission or by a hearing officer appointed by the commission. Hearing officers shall not order any disciplinary action against a licensee. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to prepare a recommended order to be submitted to the commission.

(3) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct an emergency hearing as authorized by subsection (1) of Section 3 of this Act.

Section 8. KRS 324.287 is amended to read as follows:

The commission shall set, charge, and collect the following fees:

(1) Examination fee, not to exceed one hundred dollars ($100).

(2) Broker's and sales associate's original license fee, not to exceed thirty dollars ($30).

(3) Broker's and sales associate's renewal fee, not to exceed thirty dollars ($30).

(4) Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

(5) Certification of status with the commission, ten dollars ($10).

(6) Request for any change, not to exceed ten dollars ($10).

(7) Recovery fund, not to exceed thirty dollars ($30).

(8) Broker's and associate's applicant license criminal record check fee, not to exceed ***one hundred dollars ($100)***[~~thirty dollars ($30)~~].

(9) Program accreditation fee for real estate pre-license or continuing education courses, to be paid by the program provider, not to exceed thirty dollars ($30).

(10) Certification as an additional instructor for previously accredited education courses, or as an instructor of approved real estate classes taught at an accredited institution or approved real estate school, not to exceed thirty dollars ($30).

(11) Timeshare registration, not to exceed one hundred dollars ($100).

(12) Returned or dishonored check, not to exceed one hundred dollars ($100).

Section 9. KRS 324.310 is amended to read as follows:

(1) If any sales associate is discharged or terminates his ***or her*** association with the principal broker, it shall be the duty of the broker to immediately deliver or mail to the commission the sales associate's license ***in a manner that complies with Section 10 of this Act, along*** with the release statement signed by the principal broker. The broker shall, at the time of mailing the sales associate's license to the commission, address a communication to the last known residence address of the sales associate, which shall advise the sales associate that his ***or her*** license has been delivered or mailed to the commission. A copy of the communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either

directly or indirectly under authority of ***the sales associate's***[~~his~~] license from and after the date of receipt of the license from the broker by the commission.

(2) A licensee may place his ***or her*** license in escrow with the commission provided that:

(a) The licensee does not engage in any real estate activity for others during the term of escrow of the license; and

(b) The licensee pays the annual license renewal fees for each year the license is in escrow.

(3) At the request of the licensee, upon the meeting of requirements applicable to active licensees and completion of all continuing education requirements, a license placed in escrow shall be automatically converted to an active license upon payment of the established change fee.

Section 10. KRS 324.312 is amended to read as follows:

(1) A principal broker shall return an associate's license to the commission ***immediately:***

(a) Upon the termination of the association between the broker and the associate; or

(b) At any time upon the commission's[~~upon~~] request.

(2) ***If*** a principal broker[~~ that~~] fails to return a license to the commission ***as required by subsection (1) of this section within five (5) business days, the commission shall consider the license as released, and the principal broker***[~~upon request~~] shall be in violation of KRS 324.160(4)***(u)***[~~(v)~~].

Section 11. KRS 324.420 is amended to read as follows:

(1) An aggrieved party may commence an administrative action which may result in collection from the recovery fund by first filing a complaint with the commission on a form prepared by the commission. The complaint shall constitute a prima facie case that a licensee is in violation of KRS 324.160 and is subject to the same conditions set forth in KRS 324.150. If the complaint constitutes a prima facie case and the matter is not settled, the commission shall hold a hearing pursuant to the requirements set forth in the provisions of this chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact occurred. If a violation of fraud is so found, the commission shall determine if the violation resulted in damages to complainant and in what amount. If damages cannot be accurately determined, then the amount of damages shall be determined by a Circuit Court in the county where the violation took place. In the event the question of damages is referred to the Circuit Court, the decision of the commission will not be final and appealable until the question of damages is certifiable.

(2) Upon final order by the commission or upon certification to the commission by the Circuit Court on the issue of damages, and after the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order, the aggrieved party or parties shall be paid the amount or amounts by the commission from the recovery fund.

(3) The license of the licensee against whom the claim was made by the aggrieved party shall be suspended or may be permanently revoked until such time as the licensee has reimbursed the recovery fund in full for all amounts paid, plus interest at the rate of ten percent (10%) per annum.

(4) Any party aggrieved by a final order of the commission may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B.

(5) Upon the final order of the court, and after the commission has paid from the real estate education, research, and recovery fund any sum to the aggrieved party, the commission shall be subrogated to all of the rights of the aggrieved party to the extent of the payment. The aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission. After such assignment, the commission may challenge in bankruptcy court any attempt by a former licensee to discharge the debt, if proper notice is given. Any funds recovered by the commission shall be deposited in the real estate education, research, and recovery fund.

(6) No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund unless the action against the licensee is commenced within two (2) years from actual knowledge of the cause of action or from the time when circumstances should reasonably have put the aggrieved party on notice of the cause of action.

(7) ***No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund, unless the compensation is for the actual financial harm suffered by the aggrieved party, and this financial harm is specifically and directly related to the property purchase or condition.***

(8) For purposes of this section, an "aggrieved party" shall mean either:

(a) A member of the consumer public who stands in a direct relationship to the licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting, or otherwise securing an interest in real estate through a licensee and who believes that the licensee is in violation of the provisions of this chapter; or

(b) A member of the consumer public who directly engages the services of a licensee for purposes of selling, leasing, renting, or otherwise dealing in his or her own property.

(9)[~~(8)~~] If at any time the money on deposit in the real estate education, research and recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.

(10)[~~(9)~~] Any funds in excess of the four hundred thousand dollar ($400,000) level which are not being currently used, may be invested and reinvested as set forth in subsection (2) of KRS 324.410.

Section 12. KRS 324.990 is amended to read as follows:

(1) ***(a) A person who engages in a first offense of real estate brokerage without a license shall be subject to a term of imprisonment of between ninety (90) days and twelve (12) months and to a fine, not to exceed five hundred dollars ($500). A person who engages in subsequent offenses of real estate brokerage without a license shall be subject to a term of imprisonment of not less than one (1) and not more than five (5) years and to a fine, not to exceed two thousand five hundred dollars ($2,500), for each day of the subsequent offenses of unlicensed brokerage***[~~Any person engaging in real estate brokerage without a license shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for any subsequent offenses~~].

(b) A person who engages in real estate brokerage without a license due to failure to renew a previously valid Kentucky license shall not be subject to this penalty if the person is entitled to and does avail himself ***or herself*** of the remedial provisions of KRS 324.090(3).

(2) ***(a)*** In addition to the penalties set out in this chapter ***for offenses other than those set out in subsection (1) of this section,*** a[~~ Circuit~~] court may impose an additional penalty on any person who violates any provision of this chapter ***a fine of***[~~by fining them~~] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or ***a term of imprisonment***[~~imprisoning them for a term~~] not to exceed six (6) months, or both.

(b) Upon conviction, in addition to ***these fines***[~~the aforesaid fine~~], there shall be added to the fine the amount of any real estate brokerage commission paid or received as a result of the violation or violations in question. Each transaction shall be regarded as a separate offense and shall be punished as such.

The Committee Substitute to **HB 86** is as follows:

HB 86, AN ACT relating to real estate brokerage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.111 is amended to read as follows:

(1) A principal broker shall maintain an escrow account or accounts, separate from the individual or office account, in which all contract deposits and money belonging to others shall be deposited without unreasonable delay. The escrow accounts shall be maintained within the State of Kentucky and shall be identified to the commission in writing. ***Each escrow account shall be maintained in a bank that has agreed to notify the commission in writing during the normal course of business in the event that any overdraft occurs in the account for any reason other than service charges instituted by the bank.***

(2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the person agreed to in writing by all parties.

(3) No checks shall be drawn against uncollected deposits in the escrow account.

(4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.

(5) Upon licensure and each renewal, the principal broker shall sign a permit giving the commission the permission to audit all his ***or her*** escrow accounts.

(6) Upon being notified that one (1) or more parties to a contract intends not to perform, the broker may release the contract deposit as provided in the contract or if no provision is made in the contract, the broker may initiate the release process. The release process shall require the broker to notify all parties at their last known address by certified mail that the contract deposit shall be distributed to the parties specified in the letter unless all parties enter into a written mutual release, or unless one (1) or more of the parties initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit to the party identified in the certified letter without penalty under this section and without civil liability in the courts of the Commonwealth of Kentucky.

(7) All principal brokers whose companies engage in property management shall maintain property management accounts separate from all other accounts or specifically indicate in all escrow records if funds are property management funds.

(8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.

(9) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct emergency procedures as authorized by subsection (1) of Section 2 of this Act.

Section 2. KRS 324.150 is amended to read as follows:

(1) The commission or its staff may on its own initiative investigate the actions of any licensee or any person who acts in that

capacity. On the verified written complaint of any person, the commission shall investigate the actions of any person who assumes to act in that capacity, if the complaint, together with any evidence presented in connection with it, alleges a prima facie case that a violation set out in KRS 324.160 has been committed. After the investigation, the commission may order a hearing and, in appropriate cases, take disciplinary action against any licensee who is found in violation of KRS 324.160. ***The commission may conduct an emergency hearing when alleged escrow account violations warrant emergency action. The commission shall promulgate administrative regulations to describe the specific circumstances and allegations that authorize emergency action. The emergency hearing shall be conducted in accordance with the provisions of KRS Chapter 13B as it relates to emergency orders and emergency hearings.***

(2) To investigate allegations of practices violating the provisions of this chapter, the commission may:

(a) Issue subpoenas to compel attendance of witnesses and the production of books, papers, documents, or other evidence;

(b) Administer oaths;

(c) Review evidence;

(d) Enter the office or branch office of any principal broker for the purpose of inspecting all documents required by the commission to be maintained in the principal broker's office or branch office which relate to the allegations of practices violating the provisions of this chapter;

(e) Examine witnesses; and

(f) Pay appropriate witness fees.

Section 3. KRS 324.151 is amended to read as follows:

(1) All complaints against licensees shall be submitted to the commission on forms furnished by the commission. The complaint shall state facts which, if true, would constitute a prima facie case that the licensee has violated the provisions of KRS 324.160. If the complaint does not constitute a prima facie case, the commission shall allow the complainant ten (10) days to revise and supplement the complaint in order to cure any defect. If the complainant fails to respond within ten (10) days or if the revised and supplemented complaint does not constitute a prima facie case that the licensee has violated the provisions of KRS 324.160, the commission shall dismiss the matter without requiring the licensee to file or serve a response.

(2) If the complaint constitutes a prima facie case that a licensee has violated the provisions of KRS 324.160, a copy of the complaint, exhibits attached thereto, and any subsequent pleadings, shall be served on the licensee, by the commission, at the licensee's last known address and shall show certification that there has been service by writing to the last known address.

(3) If the commission serves the complaint upon the licensee, the licensee shall file with the commission an answer to the complaint, properly notarized, on forms secured from commission offices. The answer shall be returned to the commission within twenty (20) days. The licensee shall deliver to the complainant at his ***or her*** last known address a copy of the answer, exhibits attached thereto, and any subsequent pleadings. All further pleadings in the matter filed with the commission by either party shall show that a copy has been furnished to the opposing party or parties.

(4) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct emergency procedures as authorized by subsection (1) of Section 2 of this Act.

Section 4. KRS 324.160 is amended to read as follows:

(1) The commission may order any or all of the following sanctions for violation of subsections (4) to (7) of this section:

(a) Suspension of any license;

(b) Revocation of any license;

(c) Levy of fines not to exceed ***two thousand five hundred dollars ($2,500)***[~~one thousand dollars ($1,000)~~];

(d) Placing of any licensee on probation for a period of up to twelve (12) months;

(e) Requiring successful completion of academic credit hours or additional credit hours in real estate courses from an accredited institution or approved real estate school; or

(f) Issuing a formal or informal reprimand.

(2) A canceled license may be renewed if the licensee pays all necessary fees and meets all other active licensure requirements within one (1) year of the cancellation date. No licensee whose license is canceled shall engage in real estate brokerage during the period of cancellation or receive any compensation for real estate brokerage unless the compensation was earned prior to the effective date of the cancellation.

(3) No licensee whose license is suspended shall engage in real estate brokerage or receive any compensation for real estate brokerage unless the compensation was earned prior to the suspension period.

(4) The commission shall impose sanctions set out in subsection (1) of this section against a licensee for:

(a) Obtaining a license through false or fraudulent representation;

(b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;

(c) Making any false promises of a character likely to influence, persuade, or induce;

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;

1. A real estate licensee shall not directly or indirectly buy property listed with him or her or with the broker with whom the licensee is affiliated, nor acquire an interest therein, without first indicating in writing on the offer to purchase his or her status as a licensee;

2. Before a licensee becomes a party to a contract to purchase real property, the licensee shall disclose his or her status as a licensee to all parties to the transaction, in writing, on the sales contract or on the offer to purchase;

3. Before a licensee sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose, in writing, any interest in the property to all parties to the transaction;

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker in accordance with a compensation agreement between them. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of the principal broker with whom the licensee is affiliated;

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment;

(i) Paying valuable consideration to any person for services performed in violation of this chapter;

(j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony or of a misdemeanor involving sexual misconduct the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction suspending the imposition of sentence;

(k) Failing to report a conviction, plea of guilty, or an "Alford" plea to a felony or a misdemeanor involving sexual misconduct to the commission;

(l) Soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice;

(m) [~~Offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate;~~

~~(n)~~]Acting in the dual capacity of licensee and undisclosed principal in any real estate transaction;

(n)[~~(o)~~] Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;

(o)[~~(p)~~] Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property, or attempting to obtain a brokerage agreement with a consumer knowing that the consumer had a written outstanding contract granting exclusive agency with another real estate broker;

(p)[~~(q)~~] Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;

(q)[~~(r)~~] Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;

(r)[~~(s)~~] Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;

(s)[~~(t)~~] Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020(4);

(t)[~~(u)~~] Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;

(u)[~~(v)~~] Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or

(v)[~~(w)~~] Gross negligence.

(5) Any conduct constituting a violation of the Federal Fair Housing Act, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (4)*(u)*[~~(v)~~] of this section.

(6) No unlawful act or violation of any provision of this chapter by any affiliated licensee of the principal broker shall be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation and did

not prevent it. The principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. The failure of a broker or his ***or her*** designated manager to exercise adequate supervision of the licensed affiliates shall constitute a violation of this chapter.

(7) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

Section 5. KRS 324.165 is amended to read as follows:

(1) No person shall:

(a) Solicit or request a referral fee from a real estate licensee unless that person introduced the business to the real estate licensee from whom the referral fee is sought and a contractual referral fee relationship exists between the person and the real estate licensee; or

(b) Threaten to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a client of a real estate licensee because of an agency relationship.

(2) No real estate licensee, relocation firm, or firm with a corporate relocation policy or benefits, or anyone on behalf of any licensee or firm, shall counsel a client of another real estate licensee regarding the manner in which the client may terminate or amend an existing listing contract, buyer agency agreement, or other agency relationship. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered a violation of this section, as long as the communication does not involve advice or encouragement regarding the manner in which the client may terminate or amend an existing agency relationship.

(3) Violation of this section by a broker or sales associate shall be considered improper conduct as referred to in KRS 324.160(4)***(u)***[~~(v)~~]. Violation of this section by unlicensed persons shall be subject to the penalties in KRS 324.990.

Section 6. KRS 324.170 is amended to read as follows:

(1) The commission shall, before denying an application for license or before ordering any disciplinary action against a licensee, order a hearing. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. If the applicant or licensee is a sales associate, the commission shall also notify the principal broker of the hearing by mailing notice by certified mail, return receipt requested, to the broker's last known business address. The commission shall order the presence of the principal broker or his ***or her*** designated representative at the hearing.

(2) All hearings shall be conducted by a quorum of the commission or by a hearing officer appointed by the commission. Hearing officers shall not order any disciplinary action against a licensee. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to prepare a recommended order to be submitted to the commission.

(3) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct an emergency hearing as authorized by subsection (1) of Section 2 of this Act.

Section 7. KRS 324.287 is amended to read as follows:

The commission shall set, charge, and collect the following fees:

(1) Examination fee, not to exceed one hundred dollars ($100).

(2) Broker's and sales associate's original license fee, not to exceed thirty dollars ($30).

(3) Broker's and sales associate's renewal fee, not to exceed thirty dollars ($30).

(4) Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

(5) Certification of status with the commission, ten dollars ($10).

(6) Request for any change, not to exceed ten dollars ($10).

(7) Recovery fund, not to exceed thirty dollars ($30).

(8) Broker's and associate's applicant license criminal record check fee, not to exceed ***one hundred dollars ($100)***[~~thirty dollars ($30)~~].

(9) Program accreditation fee for real estate pre-license or continuing education courses, to be paid by the program provider, not to exceed thirty dollars ($30).

(10) Certification as an additional instructor for previously accredited education courses, or as an instructor of approved real estate classes taught at an accredited institution or approved real estate school, not to exceed thirty dollars ($30).

(11) Timeshare registration, not to exceed one hundred dollars ($100).

(12) Returned or dishonored check, not to exceed one hundred dollars ($100).

Section 8. KRS 324.310 is amended to read as follows:

(1) If any sales associate is discharged or terminates his ***or her*** association with the principal broker, it shall be the duty of the broker to immediately deliver or mail to the commission the sales associate's license ***in a manner that complies with Section 9 of this Act, along*** with the release statement signed by the principal broker. The broker shall, at the time of mailing the sales associate's license to the commission, address a communication to the last known residence address of the sales associate, which shall advise the sales associate that his ***or her*** license has been delivered or mailed to the

commission. A copy of the communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either directly or indirectly under authority of ***the sales associate's***[~~his~~] license from and after the date of receipt of the license from the broker by the commission.

(2) A licensee may place his ***or her*** license in escrow with the commission provided that:

(a) The licensee does not engage in any real estate activity for others during the term of escrow of the license; and

(b) The licensee pays the annual license renewal fees for each year the license is in escrow.

(3) At the request of the licensee, upon the meeting of requirements applicable to active licensees and completion of all continuing education requirements, a license placed in escrow shall be automatically converted to an active license upon payment of the established change fee.

Section 9. KRS 324.312 is amended to read as follows:

(1) A principal broker shall return an associate's license to the commission ***immediately:***

(a) Upon the written termination of the association between the broker and the associate; or

(b) At any time upon the commission's[~~upon~~] request.

(2) ***If*** a principal broker[~~ that~~] fails to return a license to the commission ***as required by subsection (1) of this section within five (5) business days, the commission shall consider the license as released, and the principal broker***[~~upon request~~] shall be in violation of KRS 324.160(4)***(u)***[~~(v)~~].

Section 10. KRS 324.420 is amended to read as follows:

(1) An aggrieved party may commence an administrative action which may result in collection from the recovery fund by first filing a complaint with the commission on a form prepared by the commission. The complaint shall constitute a prima facie case that a licensee is in violation of KRS 324.160 and is subject to the same conditions set forth in KRS 324.150. If the complaint constitutes a prima facie case and the matter is not settled, the commission shall hold a hearing pursuant to the requirements set forth in the provisions of this chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact occurred. If a violation of fraud is so found, the commission shall determine if the violation resulted in damages to complainant and in what amount. If damages cannot be accurately determined, then the amount of damages shall be determined by a Circuit Court in the county where the violation took place. In the event the question of damages is referred to the Circuit Court, the decision of the commission will not be final and appealable until the question of damages is certifiable.

(2) Upon final order by the commission or upon certification to the commission by the Circuit Court on the issue of damages, and after the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order, the aggrieved party or parties shall be paid the amount or amounts by the commission from the recovery fund.

(3) The license of the licensee against whom the claim was made by the aggrieved party shall be suspended or may be permanently revoked until such time as the licensee has reimbursed the recovery fund in full for all amounts paid, plus interest at the rate of ten percent (10%) per annum.

(4) Any party aggrieved by a final order of the commission may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B.

(5) Upon the final order of the court, and after the commission has paid from the real estate education, research, and recovery fund any sum to the aggrieved party, the commission shall be subrogated to all of the rights of the aggrieved party to the extent of the payment. The aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission. After such assignment, the commission may challenge in bankruptcy court any attempt by a former licensee to discharge the debt, if proper notice is given. Any funds recovered by the commission shall be deposited in the real estate education, research, and recovery fund.

(6) No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund unless the action against the licensee is commenced within two (2) years from actual knowledge of the cause of action or from the time when circumstances should reasonably have put the aggrieved party on notice of the cause of action.

(7) ***No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund, unless the compensation is for the actual financial harm suffered by the aggrieved party, and this financial harm is specifically and directly related to the property.***

(8) For purposes of this section, an "aggrieved party" shall mean either:

(a) A member of the consumer public who stands in a direct relationship to the licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting, or otherwise securing an interest in real estate through a licensee and who believes that the licensee is in violation of the provisions of this chapter; or

(b) A member of the consumer public who directly engages the services of a licensee for purposes of selling, leasing, renting, or otherwise dealing in his or her own property.

(9)[~~(8)~~] If at any time the money on deposit in the real estate education, research and recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.

(10)[~~(9)~~] Any funds in excess of the four hundred thousand dollar ($400,000) level which are not being currently used, may be invested and reinvested as set forth in subsection (2) of KRS 324.410.

HB 156, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.550 is amended to read as follows:

(1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization.

(2) Within two (2) business days after the completion of a charitable gaming event or session, all gross receipts and adjusted gross receipts shall be deposited into one checking account devoted exclusively to charitable gaming. This checking account shall be designated the "charitable gaming account," and the licensed charitable organization shall maintain its account at a financial institution located in the Commonwealth of Kentucky. No other funds may be deposited or transferred into the charitable gaming account.

(3) All payments for charitable gaming expenses, payments made for prizes purchased, and any charitable donations from charitable gaming receipts shall be made from the charitable gaming account and the payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. No check drawn on the charitable gaming account may be made payable to "cash," or "bearer," except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to "cash" or "bearer," if these start-up funds are redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words "charitable gaming account" and shall contain the organization's license number on the face of each check. Payments for charitable gaming expenses, prizes purchased, and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations. The office may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(4) A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.

(5) Accurate records and books shall be maintained by each organization exempt from licensure under KRS 238.535(1) and each licensed charitable organization for a period of three (3) years. Office staff shall have access to these records at reasonable times. Licensed charitable organizations and exempt organizations shall maintain their charitable gaming records at their offices or places of business within the Commonwealth of Kentucky as identified in their license applications or applications for exempt status. All licensed charitable organizations shall be required to submit reports to the office at least quarterly. An exempt organization shall submit a yearly financial report in accordance with KRS 238.535(2), and failure to file this report shall constitute grounds for revocation of the organization's exempt status. Failure by a licensed charitable organization to file reports required under this chapter shall constitute grounds for revocation of the organization's license or denial of the organization's application to renew its license in accordance with KRS 238.560(3). Reports filed by a licensed charitable organization shall include, but shall not be limited to, the following information:

(a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;

(b) The amounts or values of all prizes paid out during the reporting period, including a listing of all prizes donated having a fair market value in excess of ***five hundred***[~~ fifty~~] dollars ***($500)***[~~($50)~~], the names of donors, and the fair market value of the donated prizes;

(c) The names and addresses of all persons who are winners of prizes having a fair market value of six hundred dollars ($600) or more;

(d) All expenses paid and the names and addresses of all persons to whom expenses were paid;

(e) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

(f) Any other information the office deems appropriate.

(6) No licensed charitable organization shall incur charitable gaming expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following charitable gaming expenses:

(a) Charitable gaming supplies and equipment;

(b) Rent;

(c) Utilities;

(d) Insurance;

(e) Advertising;

(f) Janitorial services;

(g) Bookkeeping and accounting services;

(h) Security services;

(i) Membership dues for its participation in any charitable gaming trade organization; and

(j) Any other expenses the office may determine by administrative regulation to be legitimate.

(7) No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.

Section 2. KRS 238.560 is amended to read as follows:

(1) The office may investigate allegations of wrongdoing upon complaint or upon its own volition. The office by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.

(2) In carrying out its enforcement responsibilities, the office may:

(a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;

(b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;

(c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and

(d) Conduct in-depth audits and investigations, when warranted.

(3) ***(a) As used in this subsection, "willful" means that the conduct constituting the violation was committed with intent, not accidentally or inadvertently.***

(b) The office may take appropriate administrative action against any person licensed under this chapter for any violation of the provisions of this chapter or administrative regulations promulgated thereunder ***subject to the conditions established by this subsection***.

(c) The office may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand ***or letter of warning***, and levy a fine. An administrative fine shall not exceed one thousand dollars ($1,000) for each offense. The office may deny the issuance of a license or a license renewal if the applicant or licensee has failed to pay a fine levied by the office. The office shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the history of previous violations and the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.

(d) Notwithstanding any other provision of this section, in the case of a violation of the provisions of this chapter, or an administrative regulation promulgated hereunder, that is not willful, prior to taking any other administrative action, the office shall, within two (2) months of a determination that a violation has been committed, issue a letter of warning to any person licensed under this chapter that it determines has committed a violation. The letter of warning shall:

1. Identify the violation;

2. Describe the corrective action necessary;

3. Identify the administrative actions that can be taken if the violation is not addressed; and

4. Provide that the person shall have thirty (30) days to correct the action leading to the violation.

(4) The office may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected.

(5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the office in carrying out its enforcement responsibilities.

(6) The office shall report any activity or action which would constitute a criminal offense to the appropriate authorities in the county where the activity or action occurred and to the Attorney General.

Section 3. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of fifty-three hundredths of one percent (0.53%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of

Kentucky. ***The amount of the fee shall be adjusted by October 1 of each odd-numbered year in accordance with subsection (3) of this section.*** Each licensed charitable organization shall remit to the office all moneys due on a quarterly basis. Failure by a licensed charitable organization to timely remit the fee required under this subsection upon notice of delinquency shall constitute grounds for disciplinary action in accordance with KRS 238.560.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Environmental and Public Protection Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the office shall be deposited in this account. ***Fund amounts attributable to the fee levied in subsection (1) of this section that are not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.***

(3) (a) No later than July 31 of each odd-numbered year, the Environmental and Public Protection Cabinet shall determine:

1. The amount of gross receipts during the prior biennium against which the fee collected under subsection (1) of this section was assessed; and

2. The final budgeted amount as determined by the enacted budget for the upcoming biennium for the administration and enforcement of the provisions of this Chapter. If a budget is not enacted, the amount shall be the corresponding amount in the last enacted budget.

(b) On October 1 of each odd-numbered year the fee assessed under subsection (1) of this section shall be proportionally adjusted by the Environmental and Public Protection Cabinet. The new rate shall be calculated by multiplying one hundred and ten percent (110%) by the amount determined in paragraph (a)2. of this subsection, and subtracting from that amount any remaining balance in the account, or any amount that would have been in the account if balance transfers to the General Fund had not occurred. The total shall then be divided by the amount determined in paragraph (a)1. of this subsection. The result shall be expressed as a percentage and shall be rounded to the nearest thousanth of a percent (0.000%)~~[Moneys in this account shall be expended by the office only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the office shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment]~~.

The Committee Substitute to **HB 156** is as follows:

HB 156, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.550 is amended to read as follows:

(1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization.

(2) Within two (2) business days after the completion of a charitable gaming event or session, all gross receipts and adjusted gross receipts shall be deposited into one checking account devoted exclusively to charitable gaming. This checking account shall be designated the "charitable gaming account," and the licensed charitable organization shall maintain its account at a financial institution located in the Commonwealth of Kentucky. No other funds may be deposited or transferred into the charitable gaming account.

(3) All payments for charitable gaming expenses, payments made for prizes purchased, and any charitable donations from charitable gaming receipts shall be made from the charitable gaming account and the payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. No check drawn on the charitable gaming account may be made payable to "cash," or "bearer," except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to "cash" or "bearer," if these start-up funds are redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words "charitable gaming account" and shall contain the organization's license number on the face of each check. Payments for charitable gaming expenses, prizes purchased, and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations. The office may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(4) A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.

(5) Accurate records and books shall be maintained by each organization exempt from licensure under KRS 238.535(1) and

each licensed charitable organization for a period of three (3) years. Office staff shall have access to these records at reasonable times. Licensed charitable organizations and exempt organizations shall maintain their charitable gaming records at their offices or places of business within the Commonwealth of Kentucky as identified in their license applications or applications for exempt status. All licensed charitable organizations shall be required to submit reports to the office at least quarterly. An exempt organization shall submit a yearly financial report in accordance with KRS 238.535(2), and failure to file this report shall constitute grounds for revocation of the organization's exempt status. Failure by a licensed charitable organization to file reports required under this chapter shall constitute grounds for revocation of the organization's license or denial of the organization's application to renew its license in accordance with KRS 238.560(3). Reports filed by a licensed charitable organization shall include, but shall not be limited to, the following information:

(a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;

(b) [~~The amounts or values of all prizes paid out during the reporting period, including a listing of all prizes donated having a fair market value in excess of fifty dollars ($50), the names of donors, and the fair market value of the donated prizes;~~

~~(c)~~]The names and addresses of all persons who are winners of prizes having a fair market value of six hundred dollars ($600) or more;

(c)[~~(d)~~]All expenses paid and the names and addresses of all persons to whom expenses were paid;

(d)[~~(e)~~]All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

(e)[~~(f)~~] Any other information the office deems appropriate.

(6) No licensed charitable organization shall incur charitable gaming expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following charitable gaming expenses:

(a) Charitable gaming supplies and equipment;

(b) Rent;

(c) Utilities;

(d) Insurance;

(e) Advertising;

(f) Janitorial services;

(g) Bookkeeping and accounting services;

(h) Security services;

(i) Membership dues for its participation in any charitable gaming trade organization; and

(j) Any other expenses the office may determine by administrative regulation to be legitimate.

(7) No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.

Section 2. KRS 238.560 is amended to read as follows:

(1) The office may investigate allegations of wrongdoing upon complaint or upon its own volition. The office by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.

(2) In carrying out its enforcement responsibilities, the office may:

(a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;

(b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;

(c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and

(d) Conduct in-depth audits and investigations, when warranted.

(3) ***(a) As used in this subsection, "willful" means that the conduct constituting the violation was committed with intent, not accidentally or inadvertently.***

(b) The office may take appropriate administrative action against any person licensed under this chapter for any violation of the provisions of this chapter or administrative regulations promulgated thereunder ***subject to the conditions established by this subsection***.

(c) The office may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand ***or letter of warning***, and levy a fine. An administrative fine shall not exceed one thousand dollars ($1,000) for each offense. The office may deny the issuance of a license or a license renewal if the applicant or licensee has failed to pay a fine levied by the office. The office shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the history of previous violations and the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.

(d) 1. Notwithstanding any other provisions of this section, the office shall review, within two (2) months of receipt, timely filed organization quarterly reports that include payment of the fee due as reflected on the organization quarterly report. If the office discovers reporting errors that are not willful, the office shall, prior to taking any other administrative action, issue a letter of warning to the licensee and allow the licensee thirty (30) days from the issuance of the letter to correct the identified violation. The purpose of this subparagraph is for the office to identify correctable reporting errors in a timely manner, and to notify the licensee of the errors prior to the due date of the next organization quarterly report so that the errors are corrected and are not repeated in subsequent organization quarterly reports.

2. A review conducted under subparagraph 1. of this paragraph shall not be considered an audit or final review and acceptance of an organization quarterly report and payment. The office shall have four (4) years from the date of filing to fully audit and review an organization quarterly report, and may pursue administrative actions against the licensee related to an organization quarterly report or the information reported on an organization quarterly report within the four (4) year period if violations or errors that are not willful are discovered. This subparagraph shall not be construed to require records that are not needed to audit or review an organization quarterly report to be kept longer than is required elsewhere in this chapter or in any related administrative regulations.

3. Notwithstanding the provisions of subparagraph 2. of this paragraph, for a violation that is determined to be willful, the office may pursue the administrative actions authorized by this section at any time.

4. A letter of warning issued under this section shall:

a. Identify the violation;

b. Describe the corrective action necessary;

c. Identify the administrative actions that can be taken if the violation is not addressed; and

d. Provide that the person shall have thirty (30) days to correct the action leading to the violation.

(4) The office may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected.

(5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the office in carrying out its enforcement responsibilities.

(6) The office shall report any activity or action which would constitute a criminal offense to the appropriate authorities in the county where the activity or action occurred and to the Attorney General.

Section 3. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of fifty-three hundredths of one percent (0.53%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. ***The amount of the fee shall be adjusted by October 1 of each odd-numbered year in accordance with subsection (3) of this section.*** Each licensed charitable organization shall remit to the office all moneys due on a quarterly basis. Failure by a licensed charitable organization to timely remit the fee required under this subsection upon notice of delinquency shall constitute grounds for disciplinary action in accordance with KRS 238.560.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Environmental and Public Protection Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the office shall be deposited in this account. ***Fund amounts attributable to the fee levied in subsection (1) of this section that are not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.***

(3) (a) No later than July 31 of each odd-numbered year, the Environmental and Public Protection Cabinet shall determine:

1. The amount of gross receipts during the prior biennium against which the fee collected under subsection (1) of this section was assessed; and

2. The final budgeted amount as determined by the enacted budget for the upcoming biennium for the administration and enforcement of the provisions of this chapter. If a budget is not enacted, the amount shall be the corresponding amount in the last enacted budget.

(b) On October 1 of each odd-numbered year, the fee assessed under subsection (1) of this section shall be proportionally adjusted by the Environmental and Public Protection Cabinet. The new rate shall be calculated by multiplying one hundred ten percent (110%) by the amount determined in paragraph (a)2. of this subsection,

and subtracting from that amount one-half (1/2) of any remaining balance in the account. The total shall then be divided by the amount determined in paragraph (a)1. of this subsection. The result shall be expressed as a percentage and shall be rounded to the nearest thousandth of a percent (0.000%)[~~Moneys in this account shall be expended by the office only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the office shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment~~].

HB 259, AN ACT relating to the practice of accounting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.240 is amended to read as follows:

(1) The board shall elect annually a president ***and such other officers as it deems necessary***[~~, a secretary, and a treasurer from its members. The offices of secretary and treasurer may be held by the same individual~~].

(2) The board may promulgate, and amend from time to time, administrative regulations, in accordance with the provisions of KRS Chapter 13A, for the orderly conduct of its affairs***,***[~~ and~~] for the administration of this chapter***, and***[~~. The board may also promulgate, and amend from time to time, rules of professional conduct appropriate~~] to establish and maintain a high standard of integrity and dignity in the profession of public accounting.

(3) A majority of the board shall constitute a quorum for the transaction of business.

(4) The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings, and in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of said records certified as correct under the seal of the board shall be admissible in evidence as tending to prove the content of said records.

(5) The board may employ an executive director and such other personnel as it deems necessary in its administration and enforcement of this chapter. It may appoint such committees or persons, to advise or assist it in the administration and enforcement, as it may see fit. It may retain its own counsel to advise and assist it, in addition to such advice and assistance as is provided by the Attorney General of this state.

(6) The board may join or participate in professional organizations and associations that promote improvement of the practice of accounting for the protection of the public or to facilitate the activities of the board.

(7) The board may expend funds from its account created by Section 2 of this Act to assist with accounting educational programs proposed or offered in the primary and secondary schools in this state. The amount of the expenditure shall not interfere with the performance of the board's other responsibilities.

(8) The board may purchase professional liability insurance for its members, staff, and investigators. The purchase of or failure to purchase insurance shall not be deemed a waiver of any immunity already conferred on the board, its members, staff, and investigators.

Section 2. KRS 325.250 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter shall be[~~ paid to the treasurer of the board for the use of the board, and shall be~~] deposited in the State Treasury to the credit of a revolving fund for the use of the board ***in carrying out the provisions of this chapter***. No part of this revolving fund shall revert to the general funds of this state. The compensation provided by this chapter and all expenses incurred under this chapter shall be paid from this revolving fund. No such compensation or expense shall be a charge against the general funds of this state.[~~ The board shall file an annual report of its activities with the Governor, and such report shall include a statement of all receipts and disbursements.~~]

Section 3. KRS 325.330 is amended to read as follows:

(1) An applicant for initial issuance of a license to practice shall:

(a) Satisfy all the requirements of KRS 325.261 and the administrative regulations promulgated by the board;

(b) Pay a fee not to exceed two hundred dollars ($200); and

(c) ***Complete the application process established in an administrative regulation promulgated***[~~Submit a completed application on a form issued~~] by the board.

(2) Licenses shall be initially issued and renewed for a period of two (2) years, and shall expire on the first day of July in the year of expiration.

(3) When an initial license to practice is granted, the board shall issue a nonrenewable document that indicates that the licensee has satisfied all requirements to receive an initial license as a certified public accountant.

(4) An applicant for renewal of a license to practice ***who is***[~~,~~] in good standing[~~,~~] shall complete ***the renewal procedure established in administrative regulations promulgated by the board that show that***[~~a license renewal form provided by the board showing~~] the applicant has:

(a) Fulfilled the requirement of continuing professional education for professional enhancement as defined by the board by administrative regulation, but not to exceed eighty (80) hours during a two (2) year calendar period ending December 31 preceding the July 1 renewal date. Certified public accountants not employed by a firm licensed by the board shall be required to achieve continuing professional education not to exceed sixty (60) hours during the two (2) year calendar period ending December 31 preceding the July 1 renewal date. The board shall provide for lesser, prorated requirements for applicants whose initial permit was issued substantially less than two (2) years prior to the renewal date;

(b) Paid a fee not to exceed two hundred dollars ($200) biennially;

(c) Listed a permanent mailing address; and

(d) Designated ***as part of the renewal process***[~~on the license renewal application~~] whether ***the applicant***[~~he~~] is employed by a firm licensed by the board.

(5) Any license not renewed by the expiration date shall automatically expire and the holder of the expired license shall be prohibited from practicing public accounting or holding himself out as a certified public accountant.

(6) The holder of a license that from the date of renewal has been expired for a period shorter than six (6) months, and who has not violated any other provision of this chapter, may renew the license by meeting all of the requirements of this section and paying a late penalty fee not to exceed one hundred dollars ($100).

(a) If the license has expired for a period longer than six (6) months, the applicant shall apply to the board for reinstatement. The board shall determine the eligibility for license reissuance, including a late penalty fee not to exceed two hundred dollars ($200) and additional continuing professional education hours.

(b) Failure to receive a renewal notice shall not constitute an adequate reason for failing to renew the license to practice in a timely manner.

(7) The board may reduce or waive the license to practice renewal requirements upon written request of the licensee showing illness, extreme hardship, or age and complete retirement from practice as prescribed by the board by administrative regulation.

(8) A licensee shall notify the board in writing of a change in his or her mailing address within twenty (20) days following the effective date of the change in address.

Section 4. KRS 325.340 is amended to read as follows:

(1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke, suspend, impose a fine not to exceed one thousand dollars ($1,000) ***for each violation of a provision of this chapter or administrative regulations promulgated by the board under this chapter***, refuse to issue or renew any license, censure, or place on probation any licensee, all with or without terms, for any one (1) or any combination of the following causes:

(a) Fraud or deceit in obtaining a license issued under this chapter;

(b) Dishonesty, fraud, or negligence while performing any regulated activity, including fiscal dishonesty or an intentional breach of fiduciary responsibility of any kind, and also including, but not limited to, the following:

1. Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information; and

2. Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses;

(c) Violation of any of the provisions of this chapter or administrative regulations promulgated by the board under this chapter or violation of any order of the board;

(d) Violation of a rule of professional conduct promulgated by the board;

(e) Conviction of any felony, or of any crime in which dishonesty or fraud is an element, under the laws of any state or of the United States. Conviction includes, but is not limited to, pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime;

(f) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state;

(g) Suspension or revocation of the right to practice before any state or federal agency ***or the Public Company Accounting Oversight Board or its successor***;

(h) Conduct discreditable to the accounting profession; or

(i) Failure to respond to a board inquiry regarding any licensing or complaint matter.

(2) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent licensee to pay the costs of the ***investigation and all proceedings***[~~proceeding~~].

Section 5. KRS 325.360 is amended to read as follows:

(1) The board may conduct investigations of suspected violations of this chapter or the administrative regulations promulgated by the board to determine whether there is probable cause to institute proceedings against any person or firm for any violation under this chapter, but an investigation under this section shall not be a prerequisite to proceedings. In aid of

these investigations, the board or its designee may issue subpoenas to compel witnesses to testify and to produce evidence. Subpoenas may be served in person or by certified mail, return receipt requested.

(2) The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall report to the board. The board shall then find probable cause or lack of probable cause, or it shall request that the investigating officer investigate further. Until there has been a determination of probable cause, the findings of the investigating officer, the testimony and documents gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.

(3) Upon a finding of probable cause, if the subject of the investigation is a licensee, the board shall direct that a complaint be issued pursuant to this section ***setting forth appropriate charges and a date for a hearing that shall be conducted in accordance with KRS Chapter 13B***, and if the subject of the investigation is not a licensee, the board shall take appropriate action pursuant to this chapter. Upon a finding of a lack of probable cause, the board shall close the matter.

(4) In any case where probable cause has been determined pursuant to this section***, the board may attempt to informally resolve the matter through mediation or otherwise***[~~ with respect to a violation by a licensee, or where the board has received a written complaint by any person furnishing grounds for a determination of probable cause about a violation or where the board has received notice of a decision by the board of accountancy of another state furnishing grounds, the board shall issue a complaint setting forth appropriate charges and set a date for a hearing which shall be conducted in accordance with KRS Chapter 13B~~].

(5) A licensee, after having been served with the notice of hearing and complaint as provided for in subsection (4) of this section, shall file a written response within twenty (20) days from the date he was served. If the respondent licensee fails to file a timely response or fails to appear at the hearing, the board may hear evidence against him and may enter a final order as shall be justified by the evidence.

(6) In a hearing under this section, the respondent licensee may appear in person or, in the case of a firm, through a partner, or shareholder or other person with an ownership interest.

(7) The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under this section, shall not participate in the board's decision of the matter.

(8) In a hearing under this section before the board or in acting upon the recommended order of a hearing officer, a vote of a majority of all members of the board then in office, other than a member disqualified by reason of subsection (7) of this section, shall be required to sustain any charge and to impose any penalty with respect thereto.

(9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court in accordance with KRS Chapter 13B.

(10) On rendering a final order to revoke, suspend, refuse to renew, or censure the holder of a license to practice issued under this chapter, the board shall examine its records to determine whether the respondent is authorized or licensed to practice as a certified public accountant in any other state. If the board determines that the respondent is authorized or licensed to practice in any other state, the board shall notify the board of accountancy of the other state of its action by mail within thirty (30) days of rendering the final order.

(11) The board may exchange information relating to proceedings resulting in disciplinary action against licensees with the boards of accountancy of other states and with other public authorities or private organizations having an interest in the information.

The Committee Substitute to **HB 259** is as follows:

HB 259, AN ACT relating to the practice of accounting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 325 IS CREATED TO READ AS FOLLOWS:

A person that enters this state and represents himself or herself as a "certified public accountant" or a "CPA" and performs or offers to perform a regulated activity for a resident of this sate without first obtaining a license under this chapter or complying with the practice privilege requirement in KRS 323.280 consents to the personal, subject matter, and disciplinary jurisdiction of the board. The board may conduct investigations, hearings, and impose sanctions against the person or firm as if the person or firm held a license under this chapter.

Section 2. KRS 325.240 is amended to read as follows:

(1) The board shall elect annually a president ***and such other officers as it deems necessary***[~~,a secretary, and a treasurer from its members. The offices of secretary and treasurer may be held by the same individual~~].

(2) The board may promulgate, and amend from time to time, administrative regulations, in accordance with the provisions of

KRS Chapter 13A, for the orderly conduct of its affairs***,***[~~ and~~] for the administration of this chapter***, and***[~~. The board may also promulgate, and amend from time to time, rules of professional conduct appropriate~~] to establish and maintain a high standard of integrity and dignity in the profession of public accounting.

(3) A majority of the board shall constitute a quorum for the transaction of business.

(4) The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings, and in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of said records certified as correct under the seal of the board shall be admissible in evidence as tending to prove the content of said records.

(5) The board may employ an executive director and such other personnel as it deems necessary in its administration and enforcement of this chapter. It may appoint such committees or persons, to advise or assist it in the administration and enforcement, as it may see fit. It may retain its own counsel to advise and assist it, in addition to such advice and assistance as is provided by the Attorney General of this state.

(6) The board may join or participate in professional organizations and associations that promote improvement of the practice of accounting for the protection of the public or to facilitate the activities of the board.

(7) The board may expend funds from its account created by KRS 325.250 to assist with accounting educational programs proposed or offered in the primary and secondary schools in this state. The amount of the expenditure shall not interfere with the performance of the board's other responsibilities.

(8) The board may purchase professional liability insurance for its members, staff, and investigators. The purchase of or failure to purchase insurance shall not be deemed a waiver of any immunity already conferred on the board, its members, staff, and investigators.

Section 3. KRS 325.250 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter shall be[~~ paid to the treasurer of the board for the use of the board, and shall be~~] deposited in the State Treasury to the credit of a revolving fund for the use of the board ***in carrying out the provisions of this chapter***. No part of this revolving fund shall revert to the general funds of this state. The compensation provided by this chapter and all expenses incurred under this chapter shall be paid from this revolving fund. No such compensation or expense shall be a charge against the general funds of this state.[~~ The board shall file an annual report of its activities with the Governor, and such report shall include a statement of all receipts and disbursements.~~]

Section 4. KRS 325.330 is amended to read as follows:

(1) An applicant for initial issuance of a license to practice shall:

(a) Satisfy all the requirements of KRS 325.261 and the administrative regulations promulgated by the board;

(b) Pay a fee not to exceed two hundred dollars ($200); and

(c) ***Complete the application process established in an administrative regulation promulgated***[~~Submit a completed application on a form issued~~] by the board.

(2) Licenses shall be initially issued and renewed for a period of two (2) years, and shall expire on the first day of July in the year of expiration.

(3) When an initial license to practice is granted, the board shall issue a nonrenewable document that indicates that the licensee has satisfied all requirements to receive an initial license as a certified public accountant.

(4) An applicant for renewal of a license to practice ***who is***[~~,~~] in good standing[~~,~~] shall complete ***the renewal procedure established in administrative regulations promulgated by the board that show that***[~~a license renewal form provided by the board showing~~] the applicant has:

(a) Fulfilled the requirement of continuing professional education for professional enhancement as defined by the board by administrative regulation, but not to exceed eighty (80) hours during a two (2) year calendar period ending December 31 preceding the July 1 renewal date. Certified public accountants not employed by a firm licensed by the board shall be required to achieve continuing professional education not to exceed sixty (60) hours during the two (2) year calendar period ending December 31 preceding the July 1 renewal date. The board shall provide for lesser, prorated requirements for applicants whose initial permit was issued substantially less than two (2) years prior to the renewal date;

(b) Paid a fee not to exceed two hundred dollars ($200) biennially;

(c) Listed a permanent mailing address; and

(d) Designated ***as part of the renewal process***[~~on the license renewal application~~] whether ***the applicant***[~~he~~] is employed by a firm licensed by the board.

(5) Any license not renewed by the expiration date shall automatically expire and the holder of the expired license shall be prohibited from practicing public accounting or holding himself out as a certified public accountant.

(6) The holder of a license that from the date of renewal has been expired for a period shorter than six (6) months, and who has not violated any other provision of this chapter, may renew the license by meeting all of the requirements of this section and paying a late penalty fee not to exceed one hundred dollars ($100).

(a) If the license has expired for a period longer than six (6) months, the applicant shall apply to the board for reinstatement. The board shall determine the eligibility for license reissuance, including a late penalty fee not to exceed two hundred dollars ($200) and additional continuing professional education hours.

(b) Failure to receive a renewal notice shall not constitute an adequate reason for failing to renew the license to practice in a timely manner.

(7) The board may reduce or waive the license to practice renewal requirements upon written request of the licensee showing illness, extreme hardship, or age and complete retirement from practice as prescribed by the board by administrative regulation.

(8) A licensee shall notify the board in writing of a change in his or her mailing address within twenty (20) days following the effective date of the change in address.

Section 5. KRS 325.340 is amended to read as follows:

(1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke, suspend, impose a fine not to exceed one thousand dollars ($1,000) ***for each violation of a provision of this chapter or administrative regulations promulgated by the board under this chapter***, refuse to issue or renew any license, censure, or place on probation any ***person or firm***[~~licensee~~], all with or without terms, for any one (1) or any combination of the following causes:

(a) Fraud or deceit in obtaining a license issued under this chapter;

(b) Dishonesty, fraud, or negligence while performing any regulated activity, including fiscal dishonesty or an intentional breach of fiduciary responsibility of any kind, and also including, but not limited to, the following:

1. Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information; and

2. Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses;

(c) Violation of any of the provisions of this chapter or administrative regulations promulgated by the board under this chapter or violation of any order of the board;

(d) Violation of a rule of professional conduct promulgated by the board;

(e) Conviction of any felony, or of any crime in which dishonesty or fraud is an element, under the laws of any state or of the United States. Conviction includes, but is not limited to, pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime;

(f) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state;

(g) Suspension or revocation of the right to practice before any state or federal agency ***or the Public Company Accounting Oversight Board or its successor***;

(h) Conduct discreditable to the accounting profession; or

(i) Failure to respond to a board inquiry regarding any licensing or complaint matter.

(2) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent[~~ licensee~~] to pay the costs of the ***investigation and all proceedings***[~~proceeding~~].

Section 6. KRS 325.360 is amended to read as follows:

(1) The board may conduct investigations of suspected violations of this chapter or the administrative regulations promulgated by the board to determine whether there is probable cause to institute proceedings against any person or firm for any violation under this chapter, but an investigation under this section shall not be a prerequisite to proceedings. In aid of these investigations, the board or its designee may issue subpoenas to compel witnesses to testify and to produce evidence. Subpoenas may be served in person or by certified mail, return receipt requested.

(2) The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall report to the board. The board shall then find probable cause or lack of probable cause, or it shall request that the investigating officer investigate further. Until there has been a determination of probable cause, the findings of the investigating officer, the testimony and documents gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.

(3) Upon a finding of probable cause,[~~ if the subject of the investigation is a licensee,~~] the board shall direct that a complaint be issued pursuant to this section ***setting forth appropriate charges and a date for a hearing that shall be conducted in accordance with KRS Chapter 13B***[~~, and if the subject of the investigation is not a licensee, the board shall take appropriate action pursuant to this chapter~~]. Upon a finding of a lack of probable cause, the board shall ***dismiss***[~~close~~] the matter ***either with or without prejudice***.

(4) In any case where probable cause has been determined pursuant to this section***, the board may request the affected party***

to informally resolve the matter through mediation or otherwise[~~ with respect to a violation by a licensee, or where the board has received a written complaint by any person furnishing grounds for a determination of probable cause about a violation or where the board has received notice of a decision by the board of accountancy of another state furnishing grounds, the board shall issue a complaint setting forth appropriate charges and set a date for a hearing which shall be conducted in accordance with KRS Chapter 13B~~].

(5) A ***person or firm***[~~licensee~~], after having been served with the notice of hearing and complaint as provided for in subsection ***(3)***[~~(4)~~] of this section, shall file a written response within twenty (20) days from the date ***of service***[~~he was served~~]. If the respondent licensee fails to file a timely response or fails to appear at the hearing, the board may hear evidence against ***the respondent***[~~him~~] and may enter a final order as shall be justified by the evidence.

(6) In a hearing under this section, the respondent[~~ licensee~~] may appear in person or, in the case of a firm, through a partner, or shareholder or other person with an ownership interest.

(7) The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under this section, shall not participate in the board's decision of the matter.

(8) In a hearing under this section before the board or in acting upon the recommended order of a hearing officer, a vote of a majority of all members of the board then in office, other than a member disqualified by reason of subsection (7) of this section, shall be required to sustain any charge and to impose any penalty with respect thereto.

(9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court in accordance with KRS Chapter 13B.

(10) On rendering a final order[~~ to revoke, suspend, refuse to renew, or censure the holder of a license to practice issued under this chapter~~], the board shall examine its records to determine whether the respondent is authorized or licensed to practice as a certified public accountant in any other state. If the board determines that the respondent is authorized or licensed to practice in any other state, the board shall notify the board of accountancy of the other state of its action by mail within thirty (30) days of rendering the final order.

(11) The board may exchange information relating to proceedings resulting in disciplinary action against licensees with the boards of accountancy of other states and with other public authorities or private organizations having an interest in the information.

HB 310, AN ACT relating to motor vehicle renting companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Motor vehicle renting company" means a holder of a permit as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014, which regularly engages in the renting or leasing of motor vehicles to retail customers for less than a monthly term as part of an established business; and

(b) "Vehicle license recovery fee" means a motor vehicle renting company's good-faith estimate of the average per day vehicle portion of the company's total annual vehicle ad valorem property taxes, as well as title, license, and registration costs to be paid for its rental fleet during the calendar year.

(2) (a) In a rental agreement entered into on or after the effective date of this Act between a motor vehicle renting company and a renter, the company may separately itemize and charge:

1. Daily vehicle license recovery fees to recover the company's costs of titling, licensing, and registering its rental fleet;

2. Concession recovery fees actually charged to the company by an airport or other government-owned or operated facility; and

3. Consolidated facility charges actually charged by an airport or other government-owned or operated facility for improvements to or construction of facilities at such facility where the motor vehicle company operates.

(b) A company charging a vehicle license recovery fee, concession recovery fee, or consolidated facility charge shall not make an advertisement in this state that includes a statement of the rental rate for a vehicle available for rent in this state, unless the advertisement includes a statement that the customer must pay the vehicle license recovery fee, concession recovery fee, or consolidated facility charge and discloses the maximum daily charge for the fee.

(c) The vehicle license recovery fee, concession recovery fee, or consolidated facility charge shall be shown as a separately itemized charge on the rental agreement. The vehicle license recovery fee shall be described in the rental agreement as the "estimated average per day vehicle portion of the company's total annual ad valorem property taxes, as well as vehicle title, license, and registration costs for its rental fleet."

(d) Any vehicle license recovery fees collected by the company in excess of the actual amount of its ad valorem property tax, vehicle title, license, and registration costs, if any, shall be retained by the company and applied towards the recovery of its next calendar year's ad valorem property tax, vehicle title, license, and registration costs. In such event, the good-faith estimate of the vehicle license recovery fee to be charged by the company for the next calendar year shall be reduced to take into account the excess amount collected from the prior year.

The Committee Substitute to **HB 310** is as follows:

HB 310, AN ACT relating to motor vehicle renting companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Motor vehicle renting company" means a holder of a permit as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014, which regularly engages in the renting or leasing of motor vehicles to retail customers for less than a monthly term as part of an established business; and

(b) "Vehicle license recovery fee" means a motor vehicle renting company's good-faith estimate of the average per day per vehicle portion of the company's total annual vehicle ad valorem property taxes, as well as title, license, and registration costs to be paid for its rental fleet during the calendar year.

(2) (a) In a rental agreement entered into on or after the effective date of this Act between a motor vehicle renting company and a renter, the company may separately itemize and charge:

1. Vehicle license recovery fees;

2. Concession recovery fees actually charged to the company by an airport or other government-owned or operated facility; and

3. Consolidated facility charges actually charged by an airport or other government-owned or operated facility for improvements to or construction of facilities at such facility where the motor vehicle company operates.

(b) A company charging a vehicle license recovery fee, concession recovery fee, or consolidated facility charge shall not make an advertisement in this state that includes a statement of the rental rate for a vehicle available for rent in this state, unless the advertisement includes a statement that the customer must pay the vehicle license recovery fee, concession recovery fee, or consolidated facility charge and discloses the maximum daily charge for the fee.

(c) The vehicle license recovery fee, concession recovery fee, or consolidated facility charge shall be shown as a separately itemized charge on the rental agreement. The vehicle license recovery fee shall be described in the rental agreement as the "estimated average per day per vehicle portion of the company's total annual ad valorem property taxes, as well as vehicle title, license, and registration costs for its rental fleet."

(d) Any vehicle license recovery fees collected by the company in excess of the actual amount of its ad valorem property tax, vehicle title, license, and registration costs, if any, shall be retained by the company and applied towards the recovery of its next calendar year's ad valorem property tax, vehicle title, license, and registration costs. In such event, the good-faith estimate of the vehicle license recovery fee to be charged by the company for the next calendar year shall be reduced to take into account the excess amount collected from the prior year.

HB 341, AN ACT relating to the sale of alcoholic beverages on election days.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 119.215 is amended to read as follows:

Any person who sells, loans, gives or furnishes intoxicating liquor to any person in this state ***before 12 noon*** on the day of any regular or primary election, under circumstances not constituting a violation of KRS 242.100, 244.290 or 244.480, shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each offense.

Section 2. KRS 242.100 is amended to read as follows:

Upon each day that a local option election is held, no place where alcoholic beverages are sold in the county in which the territory affected is situated shall be open ***before 12 noon***[~~at any time during the day~~]. A person in that county shall not sell, loan, furnish, or give to any person any alcoholic beverage ***before 12 noon*** on that day.

Section 3. KRS 244.290 is amended to read as follows:

(1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to[~~ remain~~] open ***before 12 noon***[~~during the hours the polls are open~~] on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept ***before 12 noon***[~~during the hours~~] the polls are

open.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county containing a city of the first, second, or third class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.

(5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits director may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and

(b) The holders of distilled spirits and wine retail drink licenses have applied to the state director and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.

Section 4. KRS 244.480 is amended to read as follows:

(1) Except as provided in subsection (3) of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.

(2) Except as provided in subsection (3) of this section, no retailer shall sell, give away, or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday or ***before 12 noon***[~~during the hours the polls are open~~] on a primary or regular election day.

(3) The legislative body of a city of the first, second, third, or fourth class or of a county containing a city of the first, second, third, or fourth class in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power to establish the times in which malt beverages may be sold within its jurisdictional boundaries, including Sunday sales if the hours so fixed:

(a) Shall not prohibit the sale, gift, or delivery of any malt beverages between 6 a.m. and midnight during any day, except Sunday; and

(b) Prohibit the sale of malt beverages on any primary or regular election day ***before 12 noon***[~~during the hours the polls are open~~].

HB 391, AN ACT relating to the sale of alcoholic beverages at state parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Qualifying state recreational park" means a state recreational park where a nine (9) or eighteen (18) hole golf course is located;

(b) "State recreational park" means a state park that does not have a full-service lodge and dining room and that designates a portion of its premises for recreational activities, including but not limited to water sports, golf, hiking, and tennis; and

(c) "State resort park" means a state park that has a full-service lodge and dining room and may include a nine (9) or eighteen (18) hole golf course.

(2) To promote economic development and tourism at a state resort park or qualifying state recreational park, wine and malt beverages may be sold by the drink if the respective state resort park or qualifying state recreational park is located in a county or city in which the provisions of KRS 242.220 to 242.430 are not in effect. The state resort park's premises or the qualifying state recreational park's premises shall include all property and facilities at the respective state park that are located in the particular county or city in which prohibition is not in effect.

(3) If a state resort park or qualifying state recreational park is located in a county or city in which KRS 242.220 to 242.430 is in effect, a local option election for the limited sale of wine and malt beverages at the state resort park or the qualifying state recreational park may be held in the precinct containing the state resort park or the qualifying state recreational park, notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary.

(4) A local option election for the limited sale of wine and malt beverages held under subsection (3) of this section shall be conducted in the same manner specified in KRS 242.020 to 242.120, except that the form of the proposition to be voted upon shall be "Are you in favor of the sale of wine and malt beverages by the drink at (name of state resort park or name of the qualifying state recreational park) in the (name of precinct)?"

(5) Upon approval of the proposition in subsection (4) of this section, the Office of Alcoholic Beverage Control may issue a license to the state resort park or the qualifying state recreational park for the sale of wine and malt beverages by the drink as provided in Section 2 of this Act. Voter approval of the proposition set out in subsection (4) of this section shall permit the sale of wine and malt beverages by the drink only on the state resort park's or the qualifying state recreational park's premises, whichever is applicable, that is located in the precinct that is the subject of the vote.

(6) If a state park contains a nine (9) or eighteen (18) hole golf course that is located in a precinct, other than a precinct named in a proposition under subsection (4) of this section, and the precinct where the golf course is located is in dry territory, a separate election may be held to take the sense of the people of the precinct on whether wine and malt beverages by the drink may be sold at the golf course, notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary.

(7) An election held under subsection (6) of this section shall be conducted in the same manner specified in KRS 242.020 to 242.120, except that the form of the proposition shall be "Are you in favor of the sale of wine and malt beverages by the drink at (name of golf course) in the (name of precinct)?"

(8) Upon the approval of the proposition in subsection (7) of this section, the Office of Alcoholic Beverage Control may issue a license to the golf course for the sale of wine and malt beverages by the drink as provided in Section 2 of this Act.

(9) A wine or malt beverage license issued under this section shall not be issued to any facility or premises in the respective precinct other than the named state resort park, qualifying state recreational park, or golf course set out in the approved proposition, whichever is applicable.

(10) Wine and malt beverages sold pursuant to a license issued under the authority of subsection (5) or (8) of this section shall be limited to consumption on that part of the state resort park's, qualifying state recreational park's, or golf course's premises that is located in the named precinct in the approved proposition.

(11) Nothing in this section shall require an election held under subsections (6) and (7) of this section to be held on the same day as an election held under subsections (3) and (4) of this section; however, the election held under subsections (3) and (4) shall precede or be held concurrently with the election authorized under subsections (6) and (7) of this section.

Section 2. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small farm winery license, per annum	$100.00
	(a) Small farm winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class or a consolidated local government	$800.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00

	(e) In all other counties	$400.00
(8)	Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a) In counties containing cities of the first class or a consolidated local government	$1,000.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)	Transporter's license, per annum	$100.00
(10)	Dining car license, per annum	$100.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)	Special industrial alcohol license, per annum	$50.00
(13)	Special nonindustrial alcohol license, per annum	$50.00
(14)	Special agent's or solicitor's license, per annum	$25.00
(15)	Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)	Special temporary liquor license, per event	$100.00
(17)	Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	$500.00
(19)	Nonresident special agent or solicitor's license, per annum	$100.00
(20)	Transport permit, nonresident license, per annum	$100.00
(21)	Through transporter's license, per annum	$100.00
(22)	Freight forwarder's license, per annum	$100.00
(23)	Restaurant wine license, per annum	$500.00
(24)	Special temporary wine license, per event	$50.00
(25)	Caterer's license, per annum	$800.00
(26)	Souvenir retail liquor license, per annum	$500.00
(27)	Special temporary distilled spirits and wine auction license, per event	$100.00
(28)	Airport drink license, per annum	$1,000.00
(29)	Convention center or convention hotel complex license, per annum	$5,000.00
(30)	Extended hours supplemental license, per annum	$2,000.00
(31)	Horse race track license, per annum	$2,000.00
(32)	Automobile race track license, per annum	$2,000.00
(33)	Air or rail system license, per annum	$2,000.00
(34)	Riverboat license, per annum	$1,000.00
(35)	Bottling house license, per annum	$1,000.00
(36)	Hotel in-room license, per annum	$200.00
(37)	Bonded warehouse license, per annum	$1,000.00
(38)	Air transporter liquor license, per annum	$500.00
(39)	Sampling license, per annum	$100.00
(40)	Replacement or duplicate license	$25.00
(41)	Entertainment destination license, per annum	$7,500.00
(42)	(a) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages), new applicants:	

1. In counties containing cities of the first class or a consolidated local government $1,200.00
2. In counties containing cities of the second class $900.00
3. In counties containing cities of the third class $800.00
4. In counties containing cities of the fourth, fifth, or sixth classes $700.00

(b) Renewals for limited restaurant licenses or limited golf course licenses shall be $50.00 less than the applicable licensing fee for new applicants.

(43) Small farm winery wholesaler's license, per annum $100.00

(44) ***State park license, per annum***
includes wine and malt beverages..$750.00

(45) A nonrefundable fee of fifty dollars ($50) shall be charged to process each new transitional license pursuant to KRS 243.045.

(46)[~~(45)~~] Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (27), (39), and (40). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the office.

The Committee on Banking and Insurance reported **HB 35, HB 126,** with Committee Substitute attached thereto, **HB 239, HB 260, HB 401, HB 410,** with Committee Substitute and Committee Amendment attached thereto, **HB 443, HB 523,** with Committee Substitute attached thereto, and **HCR 79** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 35, AN ACT relating to homeowner's insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise:

(a) "Approved safety pool cover" means a power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91; and

(b) "Enclosure" means a fence, wall, or other barrier that isolates a swimming pool from access to a home.

(2) An insurer who stipulates for purposes of homeowner's insurance coverage or rates that the insured homeowner equip any swimming pool located on the insured property with an enclosure that isolates the swimming pool from the insured home shall permit the insured homeowner to equip the pool with an approved safety pool cover in lieu of such enclosure.

HB 126, AN ACT relating to long-term care insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1, 2, and 3 of this Act, unless the context requires otherwise:

(1) "Asset disregard" means a one dollar ($1) increase in the amount of assets the policyholder may own and retain for each one dollar ($1) of benefit paid under a long-term care partnership insurance policy qualified under Sections 1, 2, and 3 of this Act when the policyholder applies for benefits of the Medicaid program;

(2) "Kentucky Long-Term Care Partnership Insurance Program" means a joint Kentucky Medicaid and private long-term care insurance program established by Sections 1, 2, and 3 of this Act that incorporates asset disregard and exempts a policyholder from estate recovery requirements of the Medicaid program if the policyholder receives Medicaid benefits after exhausting all benefits of the qualified long-term care partnership policy;

(3) "Long-term care" means necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital unless the hospital or unit is licensed or certified to provide long-term care services. Long-term care services include but are not limited to:

(a) Physician and nursing services;

(b) Therapeutic services, including physical therapy, speech therapy, and occupational therapy;

(c) Personal care services, including but not limited to companion services, assistance in bathing, dressing, and other activities of daily living;

(d) Transportation services;

(e) Adult day health and adult day care services;

(f) Services provided by optometrists, chiropractors, and podiatrists; or

(g) Respite services;

(4) "Long-term care facility" has the same meaning as in KRS 216.535; and

(5) "Long-term care partnership insurance" means insurance coverage or an insurance policy that meets the requirements of Section 2 of this Act. Long-term care partnership insurance benefits shall not include payment of coinsurance, deductibles, or premiums for services covered by other insurance policies, services covered by other insurance policies, or services covered by Parts A, B, or D of the Medicare program specified by 42 U.S.C. 1395 et seq.

SECTION 2. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Long-Term Care Partnership Insurance Program is established as a partnership between the Department for Medicaid Services and the Office of Insurance to:

(a) Provide incentives for an individual to insure against the cost of providing for his or her long-term care needs;

(b) Increase access to and the affordability of a long-term care insurance policy;

(c) Assist in alleviating the financial burden of Kentucky's Medicaid program by encouraging the use of private insurance; and

(d) Provide a mechanism for individuals to qualify for Medicaid services for costs of long-term care without exhausting all of their assets and resources.

(2) A long-term care partnership policy shall:

(a) Provide coverage for expenses for at least twelve (12) consecutive months for each covered person on an expense-incurred, indemnity, or prepaid basis for one (1) or more long-term care services provided in a setting other than an acute care unit of a hospital;

(b) Be qualified under section 7702B(b) of the Internal Revenue Code of 1986;

(c) Provide coverage for long-term care services for a policyholder who is a resident of Kentucky when coverage first became effective; and

(d) Not be issued prior to the effective date of an approved amendment to the State Medicaid Plan.

(3) The Office of Insurance shall have responsibility to:

(a) Approve any long-term care partnership insurance policy available in Kentucky that meets and continues to meet all applicable federal laws and regulations, the requirements of the long-term care insurance model regulations, and the long-term care insurance model act promulgated by the National Association of Insurance Commissioners; and

(b) Ensure that any requirement affecting the terms of a long-term care partnership policy shall also be imposed on any other long-term care policies available in Kentucky without regard to whether the policy is covered under the partnership or is offered in connection with a partnership.

(4) The Office of Insurance shall certify that any agent who sells a long-term care partnership insurance policy can demonstrate an understanding of long-term care partnership insurance and how it relates to other public and private coverage of long-term care expenses. The Department for Medicaid Services shall provide consultation, materials, and other information to the Office of Insurance to enable the Office of Insurance to facilitate the development and issuance of uniform training materials for agents who sell long-term care policies. The Office of Insurance may contract with another entity to conduct agent training and testing. Training and certification may be conducted at the expense of the insurance agent.

(5) Within sixty (60) days of notice of approval of the amendment to the State Medicaid Plan required under Section 3 of this Act, the Office of Insurance shall promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the Kentucky Long-Term Care Partnership Insurance Program. The administrative regulation shall include but not be limited to:

(a) Specifications of the frequency, type, and format of data and information to be reported by issuers of long-term care partnership insurance policies. The data requirements shall not differ from national reporting standards if available;

(b) Requirements for notification to policyholders when benefits have been paid, the amount of benefits paid, and the expected policy termination date;

(c) Reciprocity with other states' long-term care partnership programs if national standards for reciprocity become

available; and

(d) Clarification of the options and procedures regarding conversion or exchange of a nonpartnership policy to a partnership policy and any effect the implementation of Sections 1, 2, and 3 of this Act has on an existing nonpartnership policy.

(6) The Office of Insurance and the Department for Medicaid Services shall report no later than September 30 each year to the Interim Joint Committee on Banking and Insurance and the Interim Joint Committee on Health and Welfare on the number of partnership policies sold in Kentucky, utilization of the partnership policies, and expenditures and cost savings associated with implementation, utilization, and maintenance of the partnership program. If national data reporting standards become available, the report submitted to the federal agency shall meet the requirements of this subsection.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) By October 30, 2007, the Cabinet for Health and Family Services shall submit to the Center for Medicare and Medicaid Services an amendment to the State Medicaid Plan to permit the establishment of a Kentucky Long-Term Care Partnership Insurance Program that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments made to or on behalf of an individual who is a beneficiary of the partnership insurance program that meets the requirements of Sections 1 and 2 of this Act.

(2) The secretary of the cabinet shall notify in writing the executive director of the Office of Insurance and the co-chairs of the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Banking and Insurance within two (2) business days of the submission of the plan amendment and of the receipt of the response by the federal agency.

(3) Upon approval by the federal government of the state plan amendment, the department, in conjunction with the Office of Insurance, shall establish the Kentucky Long-Term Care Partnership Insurance Program in accordance with Sections 1 and 2 of this Act.

(4) The department shall:

(a) Provide consultation, information, and materials to the Office of Insurance to assist in the development and issuance of uniform training materials in accordance with subsection (4) of Section 2 of this Act; and

(b) Collaboration in the preparation of the report required in subsection (6) of Section 2 of this Act.

The Committee Substitute to **HB 126** is as follows:

HB 126, AN ACT relating to long-term care insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1, 2, 3, and 4 of this Act, unless the context requires otherwise:

(1) "Asset disregard" means a one dollar ($1) increase in the amount of assets the policyholder may own and retain for each one dollar ($1) of benefit paid under a long-term care partnership insurance policy qualified under Sections 1, 2, 3, and 4 of this Act when the policyholder applies for benefits of the Medicaid program;

(2) "Kentucky Long-Term Care Partnership Insurance Program" means a joint Kentucky Medicaid and private long-term care insurance program established by Sections 1, 2, 3, and 4 of this Act that incorporates asset disregard and exempts a policyholder from estate recovery requirements of the Medicaid program up to the amount of the asset disregard if the policyholder receives Medicaid benefits while or after accessing the benefits of the qualified long-term care partnership policy;

(3) "Long-term care" means necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital unless the hospital or unit is licensed or certified to provide long-term care services; and

(4) "Long-term care partnership insurance" means insurance coverage or an insurance policy that meets the requirements of Section 2 of this Act. Long-term care partnership insurance benefits shall not include payment of coinsurance, deductibles, or premiums for services covered by other insurance policies, services covered by other insurance policies, or services covered by Parts A, B, or D of the Medicare program specified by 42 U.S.C. sec. 1395 et seq.

SECTION 2. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Long-Term Care Partnership Insurance Program is established as a partnership between the Department for Medicaid Services and the Office of Insurance to:

(a) Provide incentives for an individual to insure against the cost of providing for his or her long-term care needs;

(b) Increase utilization of long-term care insurance policies;

  (c) Assist in alleviating the financial burden of Kentucky's Medicaid program by encouraging the use of private insurance; and

  (d) Provide a mechanism for individuals to qualify for Medicaid services for costs of long-term care without exhausting all of their assets and resources.

(2) A long-term care partnership policy shall:

  (a) Provide coverage for expenses for at least twelve (12) months for each covered person on an expense-incurred, indemnity, or prepaid basis for one (1) or more long-term care services provided in a setting other than an acute care unit of a hospital;

  (b) Be qualified under Section 7702B(b) of the Internal Revenue Code of 1986;

  (c) Provide coverage for long-term care services for a policyholder who is a resident of Kentucky when coverage first became effective; and

  (d) Not be issued prior to the effective date of an approved amendment to the State Medicaid Plan.

(3) The Office of Insurance shall have responsibility to approve, pursuant to KRS 304.14-120, any long-term care partnership insurance policy available in Kentucky that meets and continues to meet all applicable federal and state laws and regulations. The state shall not impose any requirement affecting the terms or benefits of such a policy unless the state imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with the partnership.

(4) The Office of Insurance shall assure that any agent who sells a long-term care partnership insurance policy can demonstrate an understanding of long-term care partnership insurance and how it relates to other public and private coverage of long-term care expenses. The Department for Medicaid Services shall provide consultation, materials, and other information to the Office of Insurance to enable the Office of Insurance to facilitate the development and issuance of uniform training materials for agents who sell long-term care policies. The Office of Insurance may contract with another entity to conduct agent training and testing. Training and certification may be conducted at the expense of the insurance agent.

(5) Within sixty (60) days of notice of approval of the amendment to the State Medicaid Plan required under Section 4 of this Act, the Office of Insurance shall promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the Kentucky Long-Term Care Partnership Insurance Program.

(6) The Office of Insurance and the Department for Medicaid Services shall report no later than September 30 each year to the Interim Joint Committee on Banking and Insurance and the Interim Joint Committee on Health and Welfare on the number of partnership policies sold in Kentucky, utilization of the partnership policies, and expenditures and cost savings associated with implementation, utilization, and maintenance of the partnership program. If national data reporting standards become available, the report submitted to the federal agency shall meet the requirements of this subsection.

SECTION 3. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer authorized to offer long-term care insurance plans in the Commonwealth shall disclose the availability of the Kentucky Long-Term Care Partnership Insurance program as authorized in 42 U.S.C. sec. 6021. In connection with the initial offering and renewal of any long-term care insurance plan, an insurer shall make a disclosure as part of its solicitation, sales materials, and renewal information of the availability of the Kentucky Long-Term Care Partnership Insurance Program.

(2) The manner and content of the disclosure as described in subsection (1) of this section shall be established through promulgation of administrative regulations by the Office of Insurance in coordination with the Cabinet for Health and Family Services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) By October 30, 2007, the Cabinet for Health and Family Services shall submit to the Center for Medicare and Medicaid Services an amendment to the State Medicaid Plan to permit the establishment of a Kentucky Long-Term Care Partnership Insurance Program that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments made to or on behalf of an individual who is a beneficiary of the partnership insurance program that meets the requirements of Sections 1 and 2 of this Act.

(2) The secretary of the cabinet shall notify in writing the executive director of the Office of Insurance and the co-chairs of the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Banking and Insurance within two (2) business days of the submission of the plan amendment and of the receipt of the response by the federal agency.

(3) Upon approval by the federal government of the state plan amendment, the department, in conjunction with the Office of Insurance, shall establish the Kentucky Long-Term Care Partnership Insurance Program in accordance with Sections 1 and 2 of this Act.

(4) The department shall:

  (a) Provide consultation, information, and materials to the Office of Insurance to assist in the development and

issuance of uniform training materials in accordance with subsection (4) of Section 2 of this Act; and

(b) Collaborate in the preparation of the report required in subsection (6) of Section 2 of this Act.

HB 239, AN ACT relating to large group health benefit plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-846 is amended to read as follows:

(1) Any insurer issuing or delivering group health benefit plans in the Commonwealth shall provide to an employer-organized association health benefit plan ***and to a large group health benefit plan***, within thirty (30) calendar days after a written request, the information relating to its health benefit plan that has been requested, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

(a) Aggregate claims experience by month, including claims experience for pharmacy benefits;

(b) Total premiums paid by month***, by service category***;

(c) Total number of insureds on a monthly basis by coverage tier;~~[and]~~

(d) Sufficient detailed claims information to permit the employer-organized association to verify eligibility and participation of the groups and individuals participating in the employer-organized association program***; and***

(e) Additional utilization data to help the employer measure costs in the following areas:

1. Detailed prescription drug utilization by therapeutic class and by generic versus brand;

2. Number of office visits to primary care providers and specialists;

3. Number of inpatient and outpatient hospitalizations;

4. Number of members utilizing deductible and out-of-pocket expenses by cost level; and

5. A list of the most prevalent disease categories.

The office shall, by July 15, 2005, promulgate administrative regulations to implement the provisions of this section and define the extent that individual information shall be provided.

(2) This section shall not require the insurer to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the executive director. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan ***and large group health benefit plan*** as a covered entity to cover entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq., provided that the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.

HB 260, AN ACT relating to consumer credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Cardholder" means a consumer to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person;

(b) "Consumer" means a natural person who seeks or acquires goods or services for personal, family, or household use;

(c) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number, or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit;

(d) "Open-end credit card account" means an account in which consumer credit is granted by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an unpaid balance, and the amount of credit that may be extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid and up to any limit set by the creditor; and

(e) "Retail credit card" means a credit card that is issued by or on behalf of a retailer, or a private label credit card that is limited to customers of a specific retailer.

(2) A credit card issuer shall, with each billing statement provided to a cardholder in this state, provide the following on the front of the first page of the billing statement in type no smaller than that required for any other required disclosure, but in no case in less than eight (8) point capitalized type:

(a) A written statement in the following form: "Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance."; and

(b) Either of the following:

- *1. A written statement in the form of and containing the information described in subdivision a. or b. of this subparagraph, as applicable, as follows:*
    - *a. A written three (3) line statement, as follows: "A $1,000 balance will take (insert number) years to pay off at a total cost of (insert dollar amount). A $2,500 balance will take (insert number) years to pay off at a total cost of (insert dollar amount). A $5,000 balance will take (insert number) years to pay off at a total cost of (insert dollar amount). This information is based on an annual percentage rate of (insert number) percent and a minimum payment of (insert amount)." The annual percentage rate and required minimum payment shall be the rate and payment applicable to the cardholder's account.*
    - *b. Instead of the information required by subdivision a. of this subparagraph, retail credit card issuers may provide a written three (3) line statement to read, as follows: "A $250 balance will take (insert number) years to pay off at a total cost of (insert dollar amount). A $500 balance will take (insert number) years to pay off at a total cost of (insert dollar amount). A $750 balance will take (insert number) years to pay off at a total cost of (insert amount). This information is based on an annual percentage rate of (insert number) percent and a minimum payment of (insert amount)." The annual percentage rate and required minimum payment shall be the rate and payment applicable to the cardholder's account. A retail credit card issuer is not required to provide this statement if the cardholder has a balance of less than five hundred dollars ($500); or*
- *2. A written statement providing individualized information indicating an estimate of the number of years and months and the approximate total cost to pay off the entire balance due on an open-end credit card account if the cardholder were to pay only the minimum amount due on the open-ended account based upon the terms of the credit agreement. For purposes of this subparagraph only, if the account is subject to a variable rate, the creditor may make disclosures based on the rate for the entire balance as of the date of the disclosure and indicate that the rate may vary. In addition, the cardholder shall be provided with referrals or, in the alternative, with the "800" or similar telephone number of the National Foundation for Credit Counseling, through which the cardholder can be referred to credit counseling services in, or closest to, the cardholder's county of residence. The credit counseling service shall be in good standing with the National Foundation for Credit Counseling. The creditor shall provide, or continue to provide, the information required by this subparagraph only if the cardholder has not paid more than the minimum payment for six (6) consecutive months after the effective date of this Act; and*

(c)

- *1. A written statement in the following form: "For an estimate of the time it would take to repay your balance, making only minimum payments, and the total amount of those payments, call this toll-free telephone number: (insert toll-free telephone number)." This statement shall be provided immediately following the statement required by paragraph (a) of this subsection. A credit card issuer is not required to provide this statement if the disclosure required by paragraph (b) of this subsection has been provided.*
- *2. The toll-free telephone number shall be available between the hours of 8 a.m. and 9 p.m., Eastern standard time, seven (7) days a week, and shall provide consumers with the opportunity to speak with a person, rather than a recording, from whom the information described in subparagraph 1. of this paragraph may be obtained.*
- *3. The Office of Financial Institutions shall establish a detailed table illustrating the approximate number of months that it would take and the approximate total cost to repay an outstanding balance if the consumer pays only the required minimum monthly payments and if no other additional charges or fees are incurred on the account, such as additional extension of credit, voluntary credit insurance, late fees, or dishonored check fees, by assuming all of the following:*
    - *a. A significant number of different annual percentage rates;*
    - *b. A significant number of different account balances, with the difference between sequential examples of balances being no greater than one hundred dollars ($100);*
    - *c. A significant number of different minimum payment amounts; and*
    - *d. That only minimum monthly payments are made and no additional charges or fees are incurred on the account, such as additional extensions of credit, voluntary credit insurance, late fees, or dishonored check fees.*
- *4. A creditor that receives a request for information described in subparagraph 1. of this paragraph from a cardholder through the toll-free telephone number disclosed under subparagraph 1. of this paragraph, or who is required to provide the information required by subparagraph 2. of paragraph (b) of this subsection, may satisfy its obligation to disclose an estimate of the time it would take and the*

approximate total cost to repay the cardholder' s balance by disclosing only the information set forth in the table described in subparagraph 3. of this paragraph. Including the full chart along with a billing statement does not satisfy the obligation under this section.

(3) (a) This section shall not apply in any billing cycle in which the account agreement requires a minimum payment of at least ten percent (10%) of the outstanding balance.

(b) This section shall not apply in any billing cycle in which finance charges are not imposed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise, "consumer" means a natural person who seeks or acquires goods or services for personal, family, or household use.

(2) Retail installment contracts and retail charge agreements entered into by a buyer who is a consumer shall be printed in not less than ten (10) point type and shall be written in layman's language that is easily readable and understandable by a person of average intelligence and education.

Section 3. This Act takes effect on January 1, 2008.

HB 401, AN ACT relating to life insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.16-030 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one (1) or more subsidiary corporations, and the employees, individual proprietors, and partners of one (1) or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees~~[; except that the entire premium may be paid from funds contributed by the insured employees if the amount of insurance does not exceed $2,000 on the life of any employee. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75 percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions]~~. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least two (2) employees at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

HB 410, AN ACT relating to the Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 2006 Kentucky Acts Chapter 252, Part XXIII, Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program; Section 3., at page 1452, is amended to read as follows:

Section 3. (1) Sections 1 to 8 of this Part shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, CHAMPUS insureds, or self-insured groups.

(2) Each ICARE Program participating insurer shall offer at least three qualified health benefit plans to employers. A qualified health benefit plan shall be:

(a) A consumer-driven health benefit plan, including a health reimbursement arrangement or health savings account;

(b) A basic health benefit plan, as described in KRS 304.17A-096 and 304.17A-097; or

(c) An enriched health benefit plan.

(3) Each ICARE Program participating insurer shall offer at least one of each of the plans listed in subsection (2)(a), (b), or (c) of this section. These plans shall be subject to the provisions of KRS 304.17A-220.

(4) An ICARE Program participating insurer shall conduct a health risk assessment for each employee enrolled in the ICARE Program and offer a wellness program, case management services, and disease management services.

(5) On and after July 1, 2007, an insurer shall be required to offer a premium rate that includes a healthy lifestyle discount for employers participating in the ICARE Program.

(6) A separate class of business may be established for health benefit plan rate filings offered under the ICARE Program in accordance with KRS 304.17A-0952(8)(b).

(7) Each ICARE health benefit plan shall cover all cancer screenings recommended by the American Cancer Society's "Guidelines for the Early Detection of Cancer," as revised February 28, 2006, including mammograms for breast cancer screenings, colon and rectal cancer screenings, cervical and uterine cancer screenings, and prostate cancer screenings.

Section 2. Whereas the early detection of cancer is imperative to the health of all citizens of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 410** is as follows:

HB 410, AN ACT relating to the Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-096 is amended to read as follows:

(1) An insurer authorized to engage in the business of insurance in the Commonwealth of Kentucky may offer one (1) or more basic health benefit plans in the individual, small group, and employer-organized association markets. A basic health benefit plan shall cover physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist.

(2) An insurer that offers a basic health benefit plan shall be required to offer health benefit plans as defined in KRS 304.17A-005(22).

(3) An insurer in the individual, small group, or employer-organized association markets that offers a basic health benefit plan may offer a basic health benefit plan that excludes from coverage any state-mandated health insurance benefit, except that the basic health benefit plan shall include coverage for diabetes as provided in KRS 304.17A-148, hospice as provided in KRS 304.17A-250(6), chiropractic benefits as provided in KRS 304.17A-171, ***mammograms as provided in KRS 304.17A-133,*** and those mandated benefits specified under federal law.

(4) Notwithstanding any other provisions of this section, mandated benefits excluded from coverage shall not be deemed to include the payment, indemnity, or reimbursement of specified health care providers for specific health care services.

Section 2. Whereas the early detection of cancer is imperative to the health of all citizens of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 410** is as follows:

HB 410, Amend the title to read "AN ACT relating to basic health benefit plans, and declaring an emergency.".

HB 443, AN ACT relating to the collection of delinquent taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.672 is amended to read as follows:

(1) To assist the department in the collection of delinquent taxes and debts owed to the Commonwealth, the department shall[~~ design, develop,~~] implement[~~,~~] and operate a financial institution match system for the purpose of identifying and seizing the financial assets of delinquent taxpayers and debtors as identified by the department. The provisions of KRS 131.670 to 131.676 shall be applied uniformly to all financial institutions within the Commonwealth ***and shall not be implemented in any financial institution unless and until the department is prepared to implement the system in all financial institutions within a period of no longer than six (6) months***[~~as feasible~~].

(2) ***The department shall implement and operate the system identified in subsection (1) of this section by use of the***[~~Each~~

~~financial institution in the Commonwealth shall, in conjunction with the department, develop and operate a data match system to facilitate the identification and seizure of financial assets of delinquent taxpayers and debtors identified by the department. If a financial institution has a]~~ data match system developed pursuant to KRS 205.774~~[(2)]~~ for the purpose of administering the child support enforcement programs of the Commonwealth~~[, and if the system is compatible with the requirements of KRS 131.670 to 131.676, the financial institution may utilize that system to comply with the provisions of this subsection]~~.

(3) (a) When the department determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a delinquent taxpayer or debtor, a lien or levy shall, subject to the provisions of subsection (4) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained.

(b) The department shall provide notice of the following to the debtor or delinquent taxpayer and the financial institution:

1. The match;
2. The lien or levy arising therefrom; and
3. The action to be taken to surrender or encumber the account with the lien or levy for delinquent taxes.

Notice shall be provided to the debtor or delinquent taxpayer within two (2) business days of the date the notice is sent to the financial institution.

(4) A financial institution ordered to surrender or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is seized or encumbered.

(5) A financial institution may charge an account levied on by the department a fee of not more than twenty dollars ($20), which may be deducted from the account prior to remitting any funds to the department.

(6) The department shall bear the cost or, if paid by the delinquent taxpayer or debtor, reimburse the delinquent taxpayer or debtor for any bank charges incurred as a result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to the issuance of the erroneous lien or levy, the delinquent taxpayer or debtor timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position.

(7) The department ***shall***~~[may]~~ promulgate administrative regulations to implement KRS 131.670 to 131.676.

HB 523, AN ACT relating to collateral on investments of public funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 41.240 is amended to read as follows:

(1) (a) Before any bank shall be named as a state depository to receive public funds, it shall either pledge or provide to the State Treasurer, as collateral, securities or other obligations having an aggregate current face value or current quoted market value at least equal to the deposits or provide to the State Treasurer a surety bond or surety bonds in favor of the State Treasurer in an amount at least equal to the deposits, provided, however, that amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation need not be so collateralized. The president or cashier of each depository bank shall submit to the Treasurer and the State Investment Commission a statement subscribed and sworn to by him showing:

1. The face value or current quoted market value of the securities or other obligations pledged or provided as of the time the securities or other obligations are offered as collateral; and
2. The value of surety bonds provided as of the time such surety bonds are provided as collateral.

The valuation of all pledged or provided collateral and the face amount of all surety bonds provided as collateral shall be reported to the State Treasurer and State Investment Commission upon receipt of deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31. Such value with respect to pledged collateral other than surety bonds shall be as of the end of the quarter or the preceding business day and, as to market values, shall be obtained from a reputable bond pricing service. The State Treasurer and Governor may from time to time call for additional collateral to adequately secure the deposits as aggregate face or current market values may require.

(b) No deposit of state collected demand and time funds shall collectively exceed at any time the depository's sum of capital, reserves, undivided profits and surplus or ten percent (10%) of the total deposits of any particular depository, whichever is less. Deposits will be valued at the end of each business day.

(2) (a) As an alternative to paragraph (1)(a) of this section, a Kentucky depository insured by the Federal Deposit Insurance Corporation may either pledge to the State Treasurer, as collateral, securities or other obligations having an aggregate face value or a current quoted market value or provide to the State Treasurer a surety bond or surety bonds in an amount equal to eighty percent (80%) of the value of the state deposit including demand and time

accounts, if the depository is determined by the State Investment Commission to have very strong credit with little or no credit risk at any maturity level and the likelihood of short-term unexpected problems of significance is minimal or not of a serious or long-term nature. The value of the state deposit will be determined at the end of the business day of deposit and as of the end of business on the last day of each quarter that funds are so deposited.

(b) Valuation of all pledged or provided collateral and the face amount of surety bonds provided shall be reported to the State Treasurer and the State Investment Commission upon receipt of the state deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31.

(c) Depositories designated as qualified for reduced pledging shall be so recorded in the executive journal.

(d) The State Investment Commission shall determine eligibility for the reduced pledging option based on totally objective and quantifiable measures of financial intermediary performance. The information for such eligibility shall be obtained from publicly available documents. The State Investment Commission shall promulgate the particular criteria of eligibility by regulations issued pursuant to KRS Chapter 13A.

(3) Depositories which do not qualify or do not choose to qualify under subsection (1) or (2) of this section shall not receive state deposits in excess of amounts that are insured by an instrumentality of the United States.

(4) Only the following securities and other obligations may be accepted by the State Treasurer as collateral under this section:

(a) Bonds, notes, letters of credit, or other obligations of or issued or guaranteed by the United States, or those for which the credit of the United States is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, letters of credit, or any other obligations issued or guaranteed by any federal governmental agency or instrumentality, presently or in the future established by an Act of Congress, as amended or supplemented from time to time, including, without limitation, the United States government corporations listed in KRS 66.480(1)(c);

(b) Obligations of the Commonwealth of Kentucky including revenue bonds issued by its statutory authorities, commissions, or agencies;

(c) Revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to 162.380;

(d) Obligations of any city of the first, second, and third classes of the Commonwealth of Kentucky, or any county, for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;

(e) School improvement bonds issued in accordance with the authority granted under KRS 162.080 to 162.100;

(f) School building revenue bonds issued in accordance with the authority granted under KRS 162.120 to 162.300, provided that the issuance of such bonds is approved by the Kentucky Board of Education;[~~ and~~]

(g) Surety bonds issued by sureties rated in one (1) of the three (3) highest categories by a nationally recognized rating agency***; and***

(h) Revenue bonds issued by any city, county, charter county, urban-county, district, authority, or other political subdivision of the Commonwealth authorized to issue revenue bonds if the bonds are rated in the highest category by at least one (1) nationally recognized rating agency.

(5) The State Treasurer shall accept letters of credit issued by federal home loan banks as collateral under this section.

Section 2. KRS 66.480 is amended to read as follows:

(1) The governing body of a city, county, urban-county, charter county, school district (provided that its general procedure for action is approved by the Kentucky Board of Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, if delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. These investments may be accomplished through repurchase agreements reached with sources including, but not limited to, national or state banks chartered in Kentucky;

(b) Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(c) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;

3. Bank for Cooperatives;
4. Federal Intermediate Credit Banks;
5. Federal Land Banks;
6. Federal Home Loan Banks;
7. Federal National Mortgage Association; and
8. Tennessee Valley Authority;

(d) Certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations, including surety bonds, permitted by KRS 41.240(4) ***or (5)***;

(e) Uncollateralized certificates of deposit issued by any bank or savings and loan institution rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(f) Bankers' acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) Commercial paper rated in the highest category by a nationally recognized rating agency;

(h) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(i) Securities issued by a state or local government, or any instrumentality of agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency; and

(j) Shares of mutual funds, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years; and
3. All of the securities in the mutual fund shall be eligible investments pursuant to this section.

(2) The investment authority provided by subsection (1) of this section shall be subject to the following limitations:

(a) The amount of money invested at any time by a local government or political subdivision in one (1) or more of the categories of investments authorized by subsections (1)(e), (f), (g), and (i) of this section shall not exceed twenty percent (20%) of the total amount of money invested by the local government; and

(b) No local government or political subdivision shall purchase any investment authorized by subsection (1) on a margin basis or through the use of any similar leveraging technique.

(3) The governing body of every local government or political subdivision that invests or reinvests money subject to its control or jurisdiction according to the provisions of subsection (1) of this section shall by January 1, 1995, adopt a written investment policy that shall govern the investment of funds by the local government or political subdivision. The written investment policy shall include, but shall not be limited to the following:

(a) A designation of the officer or officers of the local government or political subdivision who are authorized to invest and oversee the investment of funds;

(b) A list of the permitted types of investments;

(c) Procedures designed to secure the local government's or political subdivision's financial interest in the investments;

(d) Standards for written agreements pursuant to which investments are to be made;

(e) Procedures for monitoring, control, deposit, and retention of investments and collateral;

(f) Standards for the diversification of investments, including diversification with respect to the types of investments and firms with whom the local government or political subdivision transacts business;

(g) Standards for the qualification of investment agents which transact business with the local government, such as criteria covering creditworthiness, experience, capitalization, size, and any other factors that make a firm capable and qualified to transact business with the local government or political subdivision; and

(h) Requirements for periodic reporting to the governing body on the status of invested funds.

(4) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320, and 160.510, as permitted by this section.

(5) The provisions of this section are not intended to impair the power of a county official, city, county, urban-county, charter county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(6) The governing body or county official may delegate the investment authority provided by this section to the treasurer or other financial officer or officers charged with custody of the funds of the local government, and the officer or officers shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is

revoked.

(7) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(8) The state local debt officer is authorized and directed to assist county officials and local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request that assistance.

(9) (a) The state local debt officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local debt officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local debt officer creates an investment pool, he shall establish an account in the Treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local debt officer may issue regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings, and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(10) (a) With the approval of the Kentucky Board of Education, local boards of education, or any of them that desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the Kentucky Board of Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The Kentucky Board of Education may issue administrative regulations governing the operation of the investment pool including, but not limited to, provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.

The Committee Substitute to **HB 523** is as follows:

HB 523, AN ACT relating to collateral on investments of public funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 41.240 is amended to read as follows:

(1) (a) Before any bank shall be named as a state depository to receive public funds, it shall either pledge or provide to the State Treasurer, as collateral, securities or other obligations having an aggregate current face value or current quoted market value at least equal to the deposits or provide to the State Treasurer a surety bond or surety bonds in favor of the State Treasurer in an amount at least equal to the deposits, provided, however, that amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation need not be so collateralized. The president or cashier of each depository bank shall submit to the Treasurer and the State Investment Commission a statement subscribed and sworn to by him showing:

1. The face value or current quoted market value of the securities or other obligations pledged or provided as of the time the securities or other obligations are offered as collateral; and

2. The value of surety bonds provided as of the time such surety bonds are provided as collateral.

The valuation of all pledged or provided collateral and the face amount of all surety bonds provided as collateral shall be reported to the State Treasurer and State Investment Commission upon receipt of deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31. Such value with respect to pledged collateral other than surety bonds shall be as of the end of the quarter or the preceding business day and, as to market values, shall be obtained from a reputable bond pricing service. The State Treasurer and Governor may from time to time call for additional collateral to adequately secure the deposits as aggregate face or current market values may require.

(b) No deposit of state collected demand and time funds shall collectively exceed at any time the depository's sum of capital, reserves, undivided profits and surplus or ten percent (10%) of the total deposits of any particular depository, whichever is less. Deposits will be valued at the end of each business day.

(2) (a) As an alternative to paragraph (1)(a) of this section, a Kentucky depository insured by the Federal Deposit Insurance Corporation may either pledge to the State Treasurer, as collateral, securities or other obligations having an aggregate face value or a current quoted market value or provide to the State Treasurer a surety bond or surety bonds in an amount equal to eighty percent (80%) of the value of the state deposit including demand and time accounts, if the depository is determined by the State Investment Commission to have very strong credit with little or no credit risk at any maturity level and the likelihood of short-term unexpected problems of significance is minimal or not of a serious or long-term nature. The value of the state deposit will be determined at the end of the business day of deposit and as of the end of business on the last day of each quarter that funds are so deposited.

(b) Valuation of all pledged or provided collateral and the face amount of surety bonds provided shall be reported to the State Treasurer and the State Investment Commission upon receipt of the state deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31.

(c) Depositories designated as qualified for reduced pledging shall be so recorded in the executive journal.

(d) The State Investment Commission shall determine eligibility for the reduced pledging option based on totally objective and quantifiable measures of financial intermediary performance. The information for such eligibility shall be obtained from publicly available documents. The State Investment Commission shall promulgate the particular criteria of eligibility by regulations issued pursuant to KRS Chapter 13A.

(3) Depositories which do not qualify or do not choose to qualify under subsection (1) or (2) of this section shall not receive state deposits in excess of amounts that are insured by an instrumentality of the United States.

(4) Only the following securities and other obligations may be accepted by the State Treasurer as collateral under this section:

(a) Bonds, notes, letters of credit, or other obligations of or issued or guaranteed by the United States, or those for which the credit of the United States is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, letters of credit, or any other obligations issued or guaranteed by any federal governmental agency or instrumentality, presently or in the future established by an Act of Congress, as amended or supplemented from time to time, including, without limitation, the United States government corporations listed in KRS 66.480(1)(c);

(b) Obligations of the Commonwealth of Kentucky including revenue bonds issued by its statutory authorities, commissions, or agencies;

(c) Revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to 162.380;

(d) Obligations of any city of the first, second, and third classes of the Commonwealth of Kentucky, or any county, for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;

(e) School improvement bonds issued in accordance with the authority granted under KRS 162.080 to 162.100;

(f) School building revenue bonds issued in accordance with the authority granted under KRS 162.120 to 162.300, provided that the issuance of such bonds is approved by the Kentucky Board of Education;[~~and~~]

(g) Surety bonds issued by sureties rated in one (1) of the three (3) highest categories by a nationally recognized rating agency*; and*

(h) Revenue bonds, other than bonds to finance industrial buildings pursuant to KRS 103.200 to 103.285, issued by

any city, county, charter county, urban-county, district, authority, or other political subdivision of the Commonwealth authorized to issue revenue bonds if the bonds are rated in the highest category by at least one (1) nationally recognized rating agency.

(5) The State Treasurer shall accept letters of credit issued by federal home loan banks as collateral under this section.

Section 2. KRS 66.480 is amended to read as follows:

(1) The governing body of a city, county, urban-county, charter county, school district (provided that its general procedure for action is approved by the Kentucky Board of Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, if delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. These investments may be accomplished through repurchase agreements reached with sources including, but not limited to, national or state banks chartered in Kentucky;

(b) Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(c) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
3. Bank for Cooperatives;
4. Federal Intermediate Credit Banks;
5. Federal Land Banks;
6. Federal Home Loan Banks;
7. Federal National Mortgage Association; and
8. Tennessee Valley Authority;

(d) Certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations, including surety bonds, permitted by KRS 41.240(4) ***or (5)***;

(e) Uncollateralized certificates of deposit issued by any bank or savings and loan institution rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(f) Bankers' acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) Commercial paper rated in the highest category by a nationally recognized rating agency;

(h) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(i) Securities issued by a state or local government, or any instrumentality of agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency; and

(j) Shares of mutual funds, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years; and
3. All of the securities in the mutual fund shall be eligible investments pursuant to this section.

(2) The investment authority provided by subsection (1) of this section shall be subject to the following limitations:

(a) The amount of money invested at any time by a local government or political subdivision in one (1) or more of the categories of investments authorized by subsections (1)(e), (f), (g), and (i) of this section shall not exceed twenty percent (20%) of the total amount of money invested by the local government; and

(b) No local government or political subdivision shall purchase any investment authorized by subsection (1) on a margin basis or through the use of any similar leveraging technique.

(3) The governing body of every local government or political subdivision that invests or reinvests money subject to its control or jurisdiction according to the provisions of subsection (1) of this section shall by January 1, 1995, adopt a written

investment policy that shall govern the investment of funds by the local government or political subdivision. The written investment policy shall include, but shall not be limited to the following:

(a) A designation of the officer or officers of the local government or political subdivision who are authorized to invest and oversee the investment of funds;

(b) A list of the permitted types of investments;

(c) Procedures designed to secure the local government's or political subdivision's financial interest in the investments;

(d) Standards for written agreements pursuant to which investments are to be made;

(e) Procedures for monitoring, control, deposit, and retention of investments and collateral;

(f) Standards for the diversification of investments, including diversification with respect to the types of investments and firms with whom the local government or political subdivision transacts business;

(g) Standards for the qualification of investment agents which transact business with the local government, such as criteria covering creditworthiness, experience, capitalization, size, and any other factors that make a firm capable and qualified to transact business with the local government or political subdivision; and

(h) Requirements for periodic reporting to the governing body on the status of invested funds.

(4) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320, and 160.510, as permitted by this section.

(5) The provisions of this section are not intended to impair the power of a county official, city, county, urban-county, charter county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(6) The governing body or county official may delegate the investment authority provided by this section to the treasurer or other financial officer or officers charged with custody of the funds of the local government, and the officer or officers shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(7) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(8) The state local debt officer is authorized and directed to assist county officials and local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request that assistance.

(9) (a) The state local debt officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local debt officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local debt officer creates an investment pool, he shall establish an account in the Treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local debt officer may issue regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings, and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(10) (a) With the approval of the Kentucky Board of Education, local boards of education, or any of them that desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the Kentucky Board of Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The Kentucky Board of Education may issue administrative regulations governing the operation of the investment pool including, but not limited to, provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.

HCR 79, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study alternative methods of establishing a system of universal health insurance coverage that provides access to affordable, high-quality health care for all residents of the Commonwealth of Kentucky.

WHEREAS, there are about 548,000 working-age Kentuckians who do not have health insurance; and

WHEREAS, health insurance premiums paid by Kentucky workers have increased by 54.6% since 2000 while Kentucky employees' earnings have increased only 17.6%, according to Families USA, resulting in Kentuckians paying much larger portions of their paychecks for health insurance as health insurance becomes more unaffordable; and

WHEREAS, the percentage of persons in the U.S. with employment-based health insurance declined in 2005 for the fifth consecutive year; and

WHEREAS, a study found that businesses expect to further restrict or eliminate retiree medical plans; and

WHEREAS, Kentucky's approach to the uninsured population since 2000 has been to target segments of the uninsured population, such as Kentucky Access and Insurance Coverage, and Affordability and Relief to Small Employers (ICARE); and

WHEREAS, Maine, Vermont, and Massachusetts have enacted universal health insurance programs and other states, including California, are considering universal health insurance legislation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall direct appropriate staff to study alternative methods of establishing a system of universal health insurance coverage that provides access to affordable, high-quality health care for all residents of the Commonwealth of Kentucky. The study shall identify the advantages and disadvantages and the costs of a universal health insurance system. The universal health insurance systems in Maine, Vermont, and Massachusetts shall be reviewed, and the population, economic characteristics, health care provider and health insurance environment, and other relevant factors of those states shall be compared to those factors in Kentucky.

Section 2. The Legislative Research Commission shall transmit the results of the study required by Section 1 of this Concurrent Resolution to the appropriate committees by November 1, 2007.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 287,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute to **HB 287** is as follows:

HB 287, AN ACT relating to the Uniform Emergency Volunteer Health Practitioners Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 39G IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ

AS FOLLOWS:

As used in Sections 1 to 9 of this Act:

(1) "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health services provided by volunteer health practitioners and that:

(a) Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the Kentucky Division of Emergency Management; or

(b) Regularly plans and conducts its activities in coordination with an agency of the federal government or the Kentucky Division of Emergency Management;

(2) "Emergency" has the same meaning as used in KRS 39A.020;

(3) "Emergency declaration" has the same meaning as "declared emergency" as used in KRS 39A.020;

(4) "Emergency Management Assistance Compact" means the interstate compact established under KRS 39A.950;

(5) "Health facility" has the same meaning as used in KRS 216B.015;

(6) "Health practitioner" means an individual licensed under the laws of this or another state to provide health services;

(7) "Health services" means:

(a) The provision of treatment, care, advice or guidance, other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

1. The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

a. Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care;

b. Counseling, assessment, procedures, or other services;

2. Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

3. Funeral, cremation, cemetery, or other mortuary services; or

(b) The provision of treatment, care, advice or guidance, other services, or supplies related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:

1. Diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

2. Use of a procedure for reproductive management; and

3. Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans; and

(8) "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency;

(9) "License" means authorization by a state to engage in health services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health services based upon a national certification issued by a public or private entity;

(10) "Scope of practice" means the extent of the authorization to provide health services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority;

(11) "Voluntary health practitioner" means a health practitioner who provides health services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall apply to volunteer health practitioners registered with a registration system that complies with Section 4 of this Act and who provide health services in this state for a host entity while an emergency declaration is in effect.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) While an emergency declaration is in effect, the Cabinet for Health and Family Services in coordination with the Kentucky Division of Emergency Management and the appropriate Kentucky licensure boards may regulate:

(a) The duration and scope of practice by volunteer health practitioners;

(b) The geographical areas in which volunteer health practitioners may practice;

(c) The types of volunteer health practitioners who may practice; and

(d) Any other matters necessary to coordinate effectively the provision of health services during the emergency.

(2) An order issued pursuant to subsection (1) of this section may take effect immediately, without prior notice or comment.

(3) A host entity that uses volunteer health practitioners to provide health services in this state shall:

(a) Consult and coordinate its activities with the Cabinet for Health and Family Services to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(b) Comply with any laws relating to the management of emergency health services, in addition to Sections 1 to 9 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health and Family Services shall operate the emergency system for advanced registration of volunteer health practitioners. The system shall:

(a) Accept applications for the registration of volunteer health practitioners before or during an emergency;

(b) Include information about the licensure and good standing of health practitioners that is accessible by authorized persons; and

(c) Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services are provided under Sections 1 to 9 of this Act.

(2) The following organizations may maintain a list consisting of trained and equipped emergency response, public health, and medical personnel:

(a) Local units formed under Section 300hh of Title 42 of the United States Code;

(b) Disaster relief organizations;

(c) Licensing boards;

(d) National or regional associations of licensing boards of health practitioners;

(e) Health facilities that provide comprehensive inpatient and outpatient health-care services, including a tertiary care and teaching hospital; or

(f) Governmental entities.

(3) The organizations listed in subsection (2) of this section shall develop a collaborative relationship with the cabinet for the purposes of Sections 1 to 9 of this Act and for the purposes of being recognized by the cabinet as a voluntary response resource.

(4) The cabinet may receive state appropriations, gifts, grants, federal funds, and any other public or private funds to establish or maintain the registration system established in subsection (1) of this section.

(5) While an emergency declaration is in effect, representatives of the Cabinet for Health and Family Services or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with the registration system that complies with subsection (1) of this section. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

(6) Upon request of a person in this state authorized under subsection (2) of this section, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

SECTION 5. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

A volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

SECTION 6. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 9 of this Act shall not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than Sections 1 to 9 of this Act. Except as otherwise provided in subsection (2) of this section, Sections 1 to 9 of this Act shall not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

(2) (a) The Kentucky Division of Emergency Management, pursuant to the Emergency Management Assistance Compact, may incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state, a political subdivision of this state, or a municipality, or other local government within this state. Volunteer health practitioners incorporated into the emergency forces shall be covered under the workers' compensation provisions under KRS 39A.260.

(b) The Commissioner of the Department for Public Health, or a designee, may collaborate with any host entity or disaster relief organization for the provision of services by volunteer health practitioners within this state or any other state. If the commissioner has approved the host entity or disaster relief organization, all volunteer health practitioners providing services through the approved host entity or disaster relief organization shall be incorporated into the emergency forces of this state and shall be covered under the workers' compensation provisions under KRS 39A.260.

SECTION 7. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

The Cabinet for Health and Family Services may promulgate administrative regulations to implement Sections 1 to 9 of this Act. In doing so, the Cabinet for Health and Family Services shall consult with and consider the recommendations of the Kentucky Division of Emergency Management and shall also consult with and consider administrative regulations promulgated by similarly empowered agencies in other states to promote uniformity of application of Sections 1 to 9 of this Act and make the emergency response systems in the various states reasonably compatible.

SECTION 8. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 9. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall be known as the Good Samaritan Act of 2007.

Section 10. KRS 311.560 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States Veterans Administration, and other agencies of the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;

(b) 1. Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter; or

2. Persons who, being current participants in a medical residency program outside of Kentucky and lawfully licensed to practice medicine or osteopathy in the states of their medical residency programs, who participate in a temporary residency rotation of no more than sixty (60) days at a hospital in this Commonwealth. All persons who participate in a temporary residency rotation under this paragraph shall register with the board at no cost, on forms provided by the board, and shall be subject to the jurisdiction of the board for so long as they participate in the residency rotation. Persons who wish to participate in a second or subsequent temporary residency rotation under this paragraph shall seek advance approval of the board;

(c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. No first-year postgraduate trainee shall violate the provisions of KRS 311.595 or KRS 311.597, and any first-year postgraduate trainee who is released or discharged from a training program for a reason that falls within KRS 311.595 or 311.597 shall be reported by the program director to the board. A residency physician who participates in a temporary residency rotation under paragraph (b) of this subsection shall not be required to obtain a license under KRS 311.530 to 311.620;[~~ or~~]

(d) Physicians employed by a sports entity visiting Kentucky for a specific sporting event when the physician holds an active medical or osteopathic license in another state and limits the practice of medicine in Kentucky to medical treatment of the members, coaches, and staff of the sports entity that employs the physician*; or*

(e) Volunteer health practitioners providing services under Sections 1 to 9 of this Act.

Section 11. KRS 312.018 is amended to read as follows:

(1) No person shall engage or attempt to engage in the practice of chiropractic or hold himself out to be a doctor of chiropractic in Kentucky unless licensed in accordance with the provisions of this chapter.

(2) The provisions of subsection (1) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 9 of this Act.

Section 12. KRS 313.030 is amended to read as follows:

[~~(1)~~]Nothing in this chapter shall *prohibit:*[~~prevent~~]

(1) (a) Students from performing dental operations under the supervision of competent instructors within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize the students of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable

institution. No fee shall be accepted by the student beyond the expenses provided by the stipend.

(b)[~~(2)~~] Students shall be at all times under the direct supervision of a dentist licensed in this state, who is an instructor of the institution at which they are studying.

(2) Volunteer health practitioners providing services under Sections 1 to 9 of this Act.

Section 13. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit the following:

(a) The practice of any currently licensed nurse of another state practicing in this state during an emergency occurring in this state or any other state declared by the President of the United States or the Governor of Kentucky. The duration and conditions of the practice shall be determined by the board;

(b) The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing;

(c) The practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties;[~~ or~~]

(d) The practice of any currently licensed nurse of another state who is in this state on a nonroutine basis to:

1. Provide care to a patient being transported into, out of, or through this state;

2. Provide nursing consulting services; or

3. Present a continuing nursing education program***; or***

(e) Notwithstanding the provisions of paragraph (a) of this subsection, the practice of volunteer health practitioners under Sections 1 to 9 of this Act.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

Section 14. KRS 314A.105 is amended to read as follows:

(1) This chapter does not prohibit:

(a) The performance of respiratory care which is an integral part of the program of study by students enrolled in an accredited program;

(b) Self-care by the patient nor the gratuitous care by a friend or member of the family who does not represent or hold himself out to be a respiratory care practitioner;

(c) Respiratory care services provided in the case of an emergency;

(d) Persons from engaging in cardiopulmonary research;[~~ and~~]

(e) The performance of respiratory care by trained paramedical personnel***; and***

(f) Volunteer health practitioners providing services under Sections 1 to 9 of this Act.

(2) Nothing in this section shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their license.

Section 15. KRS 315.020 is amended to read as follows:

(1) No owner of a pharmacy who is not a pharmacist shall fail to place a pharmacist in charge of his pharmacy or shall permit any person to compound or dispense prescription drugs, medicines, or pharmaceuticals in his place of business except in the presence and under the immediate supervision of a pharmacist.

(2) No manufacturer of pharmaceuticals who is not a pharmacist shall fail to place a pharmacist in charge of his place of business or shall permit any person to compound prescription drugs, medicines, or pharmaceuticals in his place of business, except as provided by the board through the promulgation of administrative regulations pursuant to KRS Chapter 13A.

(3) Except as provided in subsection (4) of this section, no person shall engage in the practice of pharmacy unless licensed to practice under the provisions of KRS Chapter 315.

(4) The provisions of subsection (3) of this section shall not apply to:

(a) Pharmacist interns performing professional practice activities under the immediate supervision of a licensed pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;

(b) Pharmacist interns and pharmacy technicians performing specifically identified pharmacy practice activities while under the supervision of a pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;[~~ or~~]

(c) Other licensed health care professionals practicing within the statutory scope of their professional practices*; or*

(d) Volunteer health practitioners providing services under Sections 1 to 9 of this Act.

Section 16. KRS 319.005 is amended to read as follows:

(1) No person shall engage in the practice of psychology as defined in KRS 319.010 or hold himself or herself out by any title or description of services which incorporates the words "psychological," "psychologist," or "psychology", unless licensed by the board. No person shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he or she is licensed, unless he or she holds a valid license issued by the board.

(2) The provisions of subsection (1) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 9 of this Act.

Section 17. KRS 327.020 is amended to read as follows:

(1) No person shall practice or hold himself out as being able to practice physical therapy in any manner whatsoever unless he meets the educational requirements of this chapter, is licensed in accordance with the provisions of this chapter, he is in good standing with the board and his license is not suspended or revoked. Provided, however, that nothing contained in this chapter shall prohibit any person licensed in this state under any other law from engaging in the practice for which such person is duly licensed. Nothing contained in this chapter shall prohibit routine and restorative services performed by personnel employed by hospitals, physicians or licensed health care facilities as relates to physical therapists. This chapter does not preclude certified occupational therapists, respiratory technicians or respiratory therapists from practicing as defined in the United States Department of Health, Education and Welfare, Public Health Service, Health Resources Administration, Bureau of Health Manpower, DHEW publication No. (HRA) 80-28, "A Report On Allied Health Personnel." Provided further that persons regularly employed by the United States shall be exempted from the provisions of this chapter while engaged in such employment.

(2) A licensed physical therapist may hold himself out as a "physical therapist" or "licensed physical therapist" and may use the abbreviations "P.T." or "L.P.T." as a part of or immediately following his name, in connection with his profession.

(3) It shall be unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with his or its name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T." or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless such physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter.

(4) The provisions of subsection (1) and (3) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 9 of this Act.

Section 18. KRS 335.010 is amended to read as follows:

(1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.

(2) The purpose of KRS 335.010 to 335.160 and KRS 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training, and experience for those who seek to engage in the practice of social work.

(3) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the Kentucky Board of Education. Nor shall anything in KRS 335.010 to 335.160 and KRS 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the Kentucky Board of Education for the position for which they have been employed.

(4) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government, or applicants for such employment to be licensed.

(5) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by church-related or church-operated or affiliated agencies, children's homes, neighborhood centers, or other philanthropic and nonprofit field service offices to be licensed. The provisions of KRS 335.010 to 335.160 and KRS 335.990 shall not be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, and experience of those

engaged as employees of such entities in the practice of social work or applied social counseling.

(6) Nothing contained in KRS 335.010 to 335.160 and 335.990 shall prohibit volunteer health practitioners from providing services under Sections 1 to 9 of this Act.

Section 19. KRS 321.200 is amended to read as follows:

(1) No provision of this chapter shall be construed to prohibit any of the following:

(a) Any persons from gratuitously treating animals in cases of emergency if they do not represent themselves to be veterinarians or use any title or degree pertaining to veterinary practice;

(b) The owner of any animal or animals and the owner's full-time, or part-time, regular employees from caring for and treating, including administering drugs to, any animals belonging to the owner. Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this provision;

(c) Any person from castrating food animals and dehorning cattle, as long as any drugs or medications are obtained and used in accordance with applicable federal statutes and regulations governing controlled and legend drugs.

(d) Any student enrolled in any approved veterinary school or college from working under the direct supervision of a veterinarian who is duly licensed under the laws of this Commonwealth and whose compensation is paid solely by the licensed veterinarian;

(e) Nonlicensed graduate veterinarians in the United States Armed Services or employees of the Animal and Plant Health Inspection Service of the United States Department of Agriculture or the Kentucky Department of Agriculture, Division of Animal Health while engaged in the performance of their official duties, or other lawfully qualified veterinarians residing in other states, from meeting licensed veterinarians of this Commonwealth in consultation;

(f) A trainer, sales agent, or herdsman from caring for animals, provided there is a veterinary-client-patient relationship, as defined in KRS 321.185;

(g) A university faculty member from teaching veterinary science or related courses, or a faculty member or staff member from engaging in veterinary research, including drug and drug testing research, provided that research is conducted in accordance with applicable federal statutes and regulations governing controlled and legend drugs;[~~or~~]

(h) Any person who holds a postgraduate degree in reproductive physiology or a related field, and who has performed embryo transfers in Kentucky during the five (5) years immediately preceding July 14, 1992, from performing embryo transfers***; or***

(i) Volunteer health practitioners providing services under Sections 1 to 9 of this Act.

(2) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist.

Section 20. KRS 321.441 is amended to read as follows:

(1) An applicant for registration as a veterinary technologist shall be a graduate of an accredited program of veterinary technology approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technician shall possess an associate degree related to veterinary sciences, or its equivalent, approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technologist or veterinary technician shall pass a written and practical examination as determined by the board to assess the qualifications and fitness of an applicant to engage in the practice.

(2) Registration issued to a veterinary technologist or veterinary technician shall not be active until the veterinary technologist or veterinary technician is employed and is under the direct supervision of a veterinarian licensed in this Commonwealth. A veterinary technologist or veterinary technician's registration is considered to be inactive until registration is activated by returning a renewal application signed by the supervising veterinarian and the application is approved by the board. Each veterinary technologist or veterinary technician registered by the board shall pay an annual fee as prescribed by the board. Each veterinary technologist or veterinary technician registered by the board shall attend annual continuing education hours as required by the board to renew the registration. Failure to renew shall result in the termination of registration. If a hearing is requested upon the rejection of an application, or upon the termination of registration, a hearing shall be conducted in accordance with the provision of KRS 321.360.

(3) The services of a veterinary technologist or veterinary technician shall be limited to the performance of duties under the direct supervision of a licensed veterinarian except for the routine administration of drugs, vaccines, parasite control agents, and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists. A veterinary technologist or veterinary technician shall receive no fee or compensation for services other than salary or compensation paid by the establishment by which the veterinary technologist or veterinary technician is employed. A veterinary technologist or veterinary technician shall not participate in the operation of a branch office, clinic, or allied establishment unless a licensed veterinarian is on the premises. A veterinary technologist or veterinary technician shall not diagnose, prescribe medication or treatment, or perform surgical procedures other than castrating and dehorning of food animals. A veterinary technologist or veterinary technician may assist a veterinarian in all duties of veterinary medicine and surgery.

(4) A veterinarian shall utilize the services of a veterinary technologist or veterinary technician in accordance with the terms and provisions of this chapter. Unauthorized utilization of veterinary technologist or veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.351.

(5) Nothing in this section shall prohibit volunteer health practitioners from providing services under Sections 1 to 9 of this Act.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 213, HB 342,** and **HR 61** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 213, AN ACT relating to waiver of tuition fees for spouses and dependents of veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.505 is amended to read as follows:

(1) A person shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institution if the person's deceased parent or stepparent, or if the person's deceased spouse if the person has not remarried, was a resident of the Commonwealth of Kentucky upon joining the Kentucky National Guard or upon entering military service and:

(a) Was killed while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations, or was killed by hostile fire while on active duty in the Armed Forces of the United States or the Kentucky National Guard; or

(b) Died as a result of a service-connected disability acquired while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard or Reserve Component, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations.

(2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs or the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

(3) A person who became eligible for benefits under this section on or after July 14, 2000, and prior to the effective date of this Act, and who paid matriculation or tuition fees shall be reimbursed in full by the state-supported university, junior college, or vocational training institution if a request for reimbursement is made within eight (8) years of the date the last fee was paid.

Section 2. KRS 164.507 is amended to read as follows:

(1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-three (23), of a deceased veteran shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:

(a) 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or

2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or

3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and

(b) 1. Was a resident of the Commonwealth of Kentucky at the time of death; or

2. Was married to a resident of Kentucky at the time of death; and

3. If discharged, was under honorable conditions.

(2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification

from the records of the Kentucky Department of Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

(3) A person who became eligible for benefits under this section on or after July 14, 2000, and prior to the effective date of this Act, and who paid matriculation or tuition fees shall be reimbursed in full by the state-supported university, junior college, or vocational training institution if a request for reimbursement is made within eight (8) years of the date the last fee was paid.

Section 3. KRS 164.515 is amended to read as follows:

(1) The spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-three (23), of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.

(3) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.

(5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable conditions; the period of time spent in the military service to be compensated by like time, beyond the age of twenty-three (23) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

(6) The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

(7) A person who became eligible for benefits under this section on or after July 14, 2000, and prior to the effective date of this Act, and who paid matriculation or tuition fees shall be reimbursed in full by the state-supported university, junior college, or vocational training institution if a request for reimbursement is made within eight (8) years of the date the last fee was paid.

HB 342, AN ACT relating to the misuse of military status.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 519 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of misuse of military status when he or she with intent to defraud, intentionally makes:

(a) An application for special military license plates under KRS 186.041;

(b) A claim, either orally, in writing, or by any fraudulent display, that he or she is entitled to wear military awards and decorations, or entitled to wear military rank;

(c) A claim that he or she served in the United States Armed Forces, Reserve Component, or National Guard; or

(d) A claim that he or she served in the military during a wartime era, or served in a combat zone, or makes any substantial misrepresentation of actual military service.

(2) Misuse of military status is a Class A misdemeanor.

(3) KRS 431.100 notwithstanding, any fine assessed as a penalty for conviction under this section shall be transferred by the circuit clerk and deposited with the Veterans Program Trust Fund established by KRS 40.460 (2)(b).

Section 2. This Act may be cited as the Kentucky Stolen Valor Act.

HR 61, A RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veterans' Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the Legislative Research Commission created the Subcommittee on Veterans' Affairs in 1984 and it has considered issues important to veterans in each interim thereafter; and

WHEREAS, throughout those years, the Subcommittee has been the voice of veterans to the Kentucky General Assembly; and

WHEREAS, the nearly 100 state and nationally affiliated veterans organizations, representing 367,000 Kentucky veterans, have relied upon the Subcommittee on Veterans' Affairs to inform legislators of their special concerns and needs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Legislative Research Commission is requested to reestablish a Subcommittee on Veterans' Affairs to operate during the 2007 interim and present recommendations to the Kentucky General Assembly.

Section 2. It is recommended that the membership of the subcommittee be appointed by the Legislative Research Commission.

Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof.

Calendar

HB 131, 374, 387, 405, 253, 266, 284, 329, 381, 509, HJR 84, HCR 122, HB 116, 122, 177, 243, 245, 281, 297, 355, 357, 376, 448, 514, 2, 50, 208, 229, 230, 235, 306, 373, 380, 440, 461, HCR 75, HB 187, and **327** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 99, 134, 179, SJR 48, 93, SB 1, 2, 26, 36, 47, 59, 69, 75, 76, 83, 85,** and **79**. (2:10 p.m.)

Representative Wuchner moved that the rules be suspended to grant floor privileges and to act on Legislative Citationss. Agreed.

Representative Dedman moved the adoption of the following **Legislative Citation No. 38**.

The House of Representatives of the Commonwealth of Kentucky hereby welcomes and offers its sincerest congratulations to the members of the Mercer County High School Titans Football Team upon winning the 2006 KHSAA Class AA District 5, Region III and State Championship titles and completing a phenomenal undefeated season with a record of 15-0 while setting a new single-season team rushing record with 5,769 yards. Inasmuch as this extraordinary team has enjoyed a stellar year and has continually displayed great talent and heart in competition, the members of this distinguished body are delighted to join with Representative W. Milward Dedman in commending the members of the Mercer County High School Titans Football Team for earning this well-deserved accolade and in extending best wishes for future monuments of success and good fortune. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and seven.

Legislative Citation No. 38 was adopted without objection.

Representative Wuchner moved the adoption of the following **Legislative Citation No. 40**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Boone County Youth Cabinet an organization whose mission to provide training in the areas of leadership, public policy and civic responsibility is of great value both to those served by the program and the community-at-large. Inasmuch as the Boone County Youth Cabinet and its staff have worked diligently to ensure that the youth of the community are provided with the opportunity to gain the knowledge and skills necessary to serve as effective leaders in both school and community environments, the members of this honorable body are delighted to join Representative Addia K. Wuchner and Representative Sal Santoro on this momentous occasion in commending all those who have contributed to its success and in extending sincere best wishes as the organization continues its efforts on behalf of the young citizens of Boone County, Kentucky. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and seven.

Legislative Citation No. 40 was adopted without objection.

Representative Dedman moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Dedman moved the adoption of the following **Legislative Citation No. 39**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and welcomes the Mercer County High School Marching Band whose remarkable performance has resulted in this talented group of students capturing Class AA Governor's Cup honors at the 2006 Kentucky Music Educators Association State Marching Band Competition. Inasmuch as the Mercer County High School Marching Band has, through the dedicated efforts of the band members who have demonstrated remarkable hard work and discipline, continued to enjoy stellar success in this challenging competition, the members of this distinguished body are delighted to join Representative W. Milward Dedman in expressing sincere congratulations for these notable accomplishments and in extending best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and seven.

Legislative Citation No. 39 was adopted without objection.

Representative Adkins moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Adkins moved the adoption of the following **Legislative Citation No. 41**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Alice Weaver respectively Kentucky's 2007 Junior Miss. Representing Rowan County, and competing against thirty-eight other contestants, this exceptional young lady, the cherished daughter of Tony and Frances Weaver; a National Merit Scholarship Finalist; an All American gymnast; and a member of the Rowan County High School soccer and tennis teams, was named the winner of the Kentucky Junior Miss 2007, with her win marking Rowan County's first win in its forty-three years of participation in this prestigious competition--the largest scholarship program for young women who are seniors in high school and one which encourages those who participate on local, state and national levels of competition to become positive role models for others. Inasmuch as Alice Weaver will now represent the Commonwealth in national competition in June 2007 for the title of America's Junior Miss, the members of this distinguished body are delighted to join with Representative Rocky Adkins and Representative John Will Stacy in commending Alice Weaver for the effort put forth in this worthwhile endeavor and in welcoming her to the House Chamber during the 2007 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this twenty-first day of February, in the year two thousand and seven.

Legislative Citation No. 41 was adopted without objection.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 32, 138, 167, 203, 214, 321, 394, 399, 108, 109, 130, 216, 319, 325, 337, 430, HCR 120, HB 190, 225, 390, 403, 1, 23, 2, 187, 253, 266, 373, 440, 448, 514,** and **HCR 75** have been posted for passage in the Regular Orders of the Day for February 22, 2007.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 327**

Representative Adkins moved that the rules be suspended for Committee Reports. Agreed.

Report of Committees

The Committee on Judiciary reported **HB 61, HB 76,** with Committee Substitute attached thereto, **HB 191, HB 274, HB 275, HB 322, HB 334, HB 348, HB 426, HB 465,** with Committee Substitute attached thereto, **HB 469,** and **HJR 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 61, AN ACT relating to criminal trespassing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 511.060 is amended to read as follows:

(1) A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a dwelling ***or in a building used by an elementary or secondary school for curricular, cocurricular, or extracurricular instruction***.

(2) Criminal trespass in the first degree is a Class A misdemeanor.

HB 76, AN ACT relating to motor vehicle accidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both***, unless the accident involves death or serious physical injury, in which case the person shall be guilty of a Class C felony***. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months,

or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

Section 2. KRS 304.99-060 is amended to read as follows:

(1) (a) The owner of any vehicle who fails to have in full force and effect the security required by Subtitle 39 of this chapter shall:

1. Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or sentenced to not more than ninety (90) days in jail, or both;

2. Have the registration of the motor vehicle revoked and the license plates of the vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the executive director, is furnished that the security is then and will remain in effect; and

3. For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560, and may be sentenced to one hundred and eighty (180) days in jail, or fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500), or both.

(b) Penalties under paragraph (a) of this subsection for the first offense are subject to conditional discharge, suspension, or other forms of reduction of penalty by judicial discretion upon production of proof of security.

(c) For the second and each subsequent offense, minimum fines, suspensions, and penalties under paragraph (a) of this subsection are subject to conditional discharge, suspension, or other forms of reduction of penalty, by judicial discretion only upon production of proof of security and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(d) Upon expiration of the minimum six (6) month policy period, the court shall order the vehicle owner to appear before it to verify renewal of the security required by Subtitle 39 of this chapter by production of proof of security and a receipt showing that a premium for a minimum six (6) month policy period has been paid.

(e) Failure to appear shall result in the suspension of the vehicle owner's operator's license pursuant to KRS 186.570.

(f) Unless uninterrupted coverage is maintained, cancellation or expiration of the procured security before the end of the minimum six (6) month policy period shall be a Class B misdemeanor.

(g) Unless the requirement of paragraph (d) of this subsection is satisfied, the court shall revoke any conditional discharge, suspension, or other form of reduction of penalty granted under paragraph (c) of this subsection.

(2) A person who operates a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter shall:

(a) Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or sentenced to not more than ninety (90) days in jail, or both***, except that where the charge arises from an automobile accident involving death or serious physical injury where the person complies with KRS 189.580, the person shall be subject to a minimum mandatory sentence of thirty (30) days in jail***; and

(b) For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560, and may be sentenced to not more than one hundred eighty (180) days in jail or fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500), or both.

(3) If the person who operates a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter is also the owner of the motor vehicle, the person shall be subject to penalties under both subsection (1) and subsection (2) of this section.

The Committee Substitute to **HB 76** is as follows:

HB 76, AN ACT relating to motor vehicle accidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS

189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both***, unless the accident involves death or serious physical injury, in which case the person shall be guilty of a Class D felony***. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

HB 191, AN ACT relating to medical parole of prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.3405 is amended to read as follows:

(1) Notwithstanding any statute eliminating parole or establishing minimum time for parole eligibility for a certain class or status of offender, including KRS 439.340*(11)*[~~(10)~~], 439.3401, 532.080(7), and 533.060, the board, with the written consent of a majority of the full board, may review the case of any prisoner and release that prisoner on parole despite any elimination of or minimum time for parole eligibility, when the prisoner has a documented terminal medical condition

likely to result in death within one (1) year or severe chronic lung disease, end-stage heart disease, severe neuro-muscular disease such as multiple sclerosis; or has severely limited mobility due to paralysis as a result of stroke or trauma; or is dependent on external life support systems and would not pose a threat to society if paroled.

(2) Medical information considered under this section shall be limited to the medical findings supplied by Department of Corrections medical staff. The medical staff shall provide in writing the prisoner's diagnosis and prognosis in support of the conclusion that the prisoner suffers from a terminal medical condition likely to result in death within one (1) year or because of the conditions set forth in subsection (1) of this section he is totally dependent on others for the activities of daily living.

(3) The medical information prepared by the Department of Corrections medical staff under this section shall be forwarded to the warden of the institution who shall submit that information and a recommendation for or against parole review under this section to the commissioner of the Department of Corrections or his designee. With the approval of the commissioner of the Department of Corrections, a request for parole review under this section, along with the medical information and warden's recommendation, shall be submitted to the board.

(4) Medical information presented under this section shall be considered along with other information relevant to a decision regarding the granting of parole and shall not constitute the only reason for granting parole.

(5) Notwithstanding KRS 439.340(5), in addition to or in conjunction with each review conducted under subsection (1) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of parole to any such prisoner, the Parole Board shall conduct a hearing of which the following persons shall receive not less than fifteen (15) nor more than thirty (30) days' notice:

(a) The Commonwealth's attorney, who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he is imprisoned; and

(b) All identified victims of the crimes or the next of kin of any victim who is deceased.

Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth Attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made by mail, fax, or electronic means at the discretion of the board, to their last known address or telephone number as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

HB 274, AN ACT relating to attorneys fees in usury actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 360.020 is amended to read as follows:

(1) The taking, receiving, reserving, or charging a rate of interest greater than is allowed by KRS 360.010, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the creditors taking or receiving the same: provided, that such action is commenced within two (2) years from the time the usurious transaction occurred.

(2) ***In the case of any successful action to enforce the provisions of KRS 360.010 brought by a person under this section, or to any action in which a person is determined to be entitled to a forfeiture of interest or a recovery of interest paid as set out in subsection (1) of this section, the court shall award to that person reasonable attorney's fees and costs in addition to the relief provided in this section.***

(3) Partial payment on a debt bearing interest shall be first applied to the interest then due.

HB 275, AN ACT relating to durable powers of attorney.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 386.093 is amended to read as follows:

(1) As used in this section, "durable power of attorney" means a power of attorney by which a principal designates another as the principal's attorney in fact in writing and the writing contains the words, "This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time", or "This power of attorney shall become effective upon the disability or incapacity of the principal", or similar words showing the intent of the principal that the authority

conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity, and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.

(2) All acts done by an attorney in fact under a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and the principal's successors in interest as if the principal were competent and not disabled. Unless the instrument states a time of termination, the power is exercisable notwithstanding the lapse of time since the execution of the instrument.

(3) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

(4) The disability or incapacity of the principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(5) If the power of attorney is to become effective upon the disability or incapacity of the principal, the principal may specify the conditions under which the power is to become effective and may designate the person, persons, or institution responsible for making the determination of disability or incapacity. If the principal fails to so specify, the power shall become effective upon a written determination by two (2) physicians that the principal is unable, by reason of physical or mental disability, to prudently manage or care for the principal's person or property, which written determination shall be conclusive proof of the attorney in fact's power to act pursuant to the power of attorney. The two (2) physicians making the determination shall be licensed to practice medicine.

(6) Notwithstanding any provision of law to the contrary, a durable power of attorney may authorize an attorney in fact to make a gift of the principal's real or personal property to the attorney in fact or to others if the intent of the principal to do so is unambiguously stated on the face of the instrument.

(7) The appointment of a guardian or conservator to manage a principal's real or personal property and other financial resources revokes a durable power of attorney. The appointment of a limited guardian or a limited conservator limits the attorney-in-fact to managing the principal's real or personal property or other financial resources not placed under the control and management of the limited guardian or the limited conservator.

(8) An "interested person or entity," as defined in KRS 387.510(12), who believes that an attorney-in-fact has breached a fiduciary duty or has otherwise acted against the best interest of the principal, may file a verified petition in District Court to revoke the durable power of attorney. The petition shall be filed in the county where the principal or attorney-in-fact resides, in the county of domicile of the principal, or in the county where any part of the financial resources of the principal is located. The petition shall state the factual basis for the petitioner's belief that the attorney-in-fact has breached a fiduciary duty or acted against the best interest of the principal. The court may appoint a guardian ad litem for the principal. The court, after reasonable notice to the petitioner, to the attorney-in-fact, to the principal, and to the guardian ad litem, shall conduct a hearing on the petition. The court, upon hearing the petition and upon finding that the attorney-in-fact has breached a fiduciary duty or has acted against the best interest of the principal, may revoke or amend the durable power of attorney; otherwise, the court shall dismiss the petition. In addition to or in lieu of revoking or amending the power of attorney, the court may order the attorney-in-fact to file within a reasonable time, not to exceed ninety (90) days, an accounting of all property received or disposed of by the attorney-in-fact on behalf of the principal under the durable power of attorney.

HB 322, AN ACT relating to restraining orders upon conviction of a sexual offense.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) A verdict of guilty or a plea of guilty to a felony offense under this chapter other than indecent exposure shall operate as an application for a restraining order limiting the contact of the defendant and the person identified as the victim in the indictment, unless the victim requests otherwise.

(2) The court shall give the defendant notice of his or her right to request a hearing on the application for a restraining order. If the defendant waives his or her right to a hearing on this matter, then the court may issue a restraining order without a hearing.

(3) If the defendant requests a hearing, it may be held at the time of verdict or plea of guilty, unless the victim or defendant requests otherwise. The hearing shall be held in the court where the verdict or plea of guilty was entered.

(4) The order may restrain the defendant from making contact with the victim. The forms of contact to be restrained in the order shall include speaking to the victim, corresponding with the victim, harassing the victim, threatening the victim, touching the victim, stalking or following the victim, and doing any other act to or in relation to the victim which the court orders in addition to the specific forms of contact prohibited by this section. All terms of the court's order shall be placed in writing and the defendant shall be given a copy of that order.

(5) The prohibited forms of contact shall not include contacts between the defendant's attorney and the victim, the payment of restitution in the manner specified by the court, or any other form of contact permitted in writing by the court.

(6) At any time after the entry of a restraining order the defendant or the victim of the crime may petition the court to:

(a) Reduce or modify the prohibited forms of contact;

(b) Increase the prohibited forms of contact; or

(c) Vacate the no contact order.

(7) Upon receipt of such a petition the court shall set a hearing with notice to the defendant and the victim of the crime.

(8) The restraining order shall be issued on a form prescribed by the Administrative Office of the Courts.

(9) Within twenty-four (24) hours of entry of a restraining order or entry of an order rescinding or modifying a restraining order, the circuit clerk shall forward a copy of the order to the Law Enforcement Information Network of Kentucky (LINK).

(10) A restraining order issued under this section shall be enforced in any county of the Commonwealth. A peace officer acting in good faith in enforcing a restraining order shall be immune from criminal and civil liability.

(11) Personal information of the victim contained in any restraining order shall be subject to protection from disclosure.

(12) A person is guilty of violating a no contact order when he or she intentionally violates any of the provisions of an order issued pursuant to this section.

(13) Violation of a no contact order is a Class A misdemeanor.

HB 334, AN ACT relating to business entities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 5 OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

A corporation that changes the mailing address of its principal office shall deliver to the Secretary of State for filing, on a form supplied by the Secretary of State, a statement of change that sets forth:

(1) The name of the corporation;

(2) The mailing address of its principal office prior to the change; and

(3) The new mailing address of its principal office.

SECTION 2. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

A corporation may be converted to a limited liability company as provided in Section 16 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

A corporation that changes the mailing address of its principal office shall deliver to the Secretary of State for filing, on a form supplied by the Secretary of State, a statement of change that sets forth:

(1) The name of the corporation;

(2) The mailing address of its principal office prior to the change; and

(3) The new mailing address of its principal office.

SECTION 4. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as may be otherwise provided in a written operating agreement, a limited liability company may sell, lease, exchange, or otherwise dispose of all or substantially all of its property with or without the good will, otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by a majority-in-interest of the members.

(2) Unless otherwise provided in the articles of organization or a written operating agreement, no member shall have the right to dissent from a sale, lease, exchange, or other disposition by a limited liability company of all or substantially all of its property outside the ordinary course of business.

SECTION 5. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may acquire all or part of the outstanding shares of one (1) or more classes or series of a domestic or foreign corporation if the corporation, limited liability company, and a majority of their owners approve the exchange and, if the corporation is a foreign corporation, the share exchange is permitted under the laws of the state or country under which the foreign corporation is incorporated.

(2) The plan of share exchange shall set forth:

(a) The name of the corporation whose shares will be acquired and the name of the acquiring limited liability company;

(b) The terms and conditions of the exchange; and

(c) The manner and basis of exchanging the shares to be acquired for limited liability company interests, obligations, or other securities of the acquiring limited liability company or for cash or other property, in whole or part.

(3) The plan of share exchange may set forth other provisions relating to the exchange.

(4) This section shall not limit the power of a limited liability company to acquire all or part of the shares of one (1) or more classes or series of a corporation through a voluntary exchange or otherwise.

(5) Unless otherwise provided in the articles of organization, a written operating agreement, or a written plan of share exchange, no member of a limited liability company shall have the right to dissent from a share exchange.

SECTION 6. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in a written operating agreement, the plan of share exchange described in Section 5 of this Act shall be considered for adoption by the members of the limited liability company.

(2) Each business entity that is a party to the share exchange shall approve the plan of share exchange in the manner and by the vote required by the laws applicable to the business entity.

SECTION 7. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) After a plan of share exchange has been approved in accordance with Section 6 of this Act, the acquiring limited liability company shall deliver to the Secretary of State for filing the articles of share exchange setting forth:

(a) The plan of share exchange; and

(b) A statement that the plan of share exchange was duly authorized and approved by each of the constituent business entities in accordance with the laws applicable to each business entity.

(2) A share exchange shall take effect upon the effective date of the articles of share exchange.

SECTION 8. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

When a share exchange takes effect, the shares of each acquired corporation shall be exchanged as provided in the plan, and the former holders of the shares shall be entitled only to the exchange rights provided in the articles of share exchange.

SECTION 9. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A nonprofit limited liability company shall not have or issue membership interests in the limited liability company, and no distribution shall be paid and no part of the income or profit of the limited liability company shall be distributed to its members or managers.

(2) A nonprofit limited liability company may pay compensation in a reasonable amount to its members or managers for services rendered and may confer benefits upon its members in conformity with its purposes, and these payments or benefits shall not be deemed to be a distribution of income or profit.

SECTION 10. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

No loan shall be made by a nonprofit limited liability company to its members or managers, and any member or manager who assents to or participates in the making of a loan violating this prohibition shall be liable to the limited liability company for the amount of the loan until its repayment.

SECTION 11. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

The assets of a nonprofit limited liability company in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the nonprofit limited liability company shall be paid and discharged, or adequate provisions made for them;

(2) Assets received and held by the nonprofit limited liability company upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with the condition's requirements;

(3) Assets received and held by the nonprofit limited liability company subject to limitations permitting their use only for a nonprofit purpose, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred or conveyed to one (1) or more domestic or foreign nonprofit corporations, limited liability companies, societies, or organizations engaged in activities substantially similar to those of the dissolving nonprofit limited liability company, pursuant to a plan of distribution; and

(4) Any remaining assets may be distributed to those nonprofit corporations, limited liability companies, societies, or organizations as may be specified in a plan of dissolution including those that are members of the nonprofit limited liability companies.

SECTION 12. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) In proceedings to liquidate the assets and affairs of a nonprofit limited liability company, the court shall have the power to issue injunctions and to appoint a receiver or receivers while the action is pending. The receivers shall have those powers and duties as the court from time to time may direct, to take action to preserve the corporate assets wherever situated, and to carry on the affairs of the nonprofit limited liability company until a full hearing can be held.

(2) After holding a hearing, upon notice as the court may direct to be given to all parties to the proceedings and to any

other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the nonprofit limited liability company. The liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the nonprofit limited liability company wherever situated, either at public or private sale. The order appointing the liquidating receiver or receivers shall state their powers and duties. The powers and duties may be increased or diminished at any time during the proceedings.

(3) The assets of the nonprofit limited liability company or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(a) All costs and expenses of the court proceedings and all liabilities and obligations of the nonprofit limited liability company shall be paid, satisfied, and discharged, or adequate provision for them shall be made;

(b) Assets held by the nonprofit limited liability company upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with the condition's requirements;

(c) Assets received and held by the nonprofit limited liability company subject to limitations permitting their use only for a nonprofit purpose, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one (1) or more domestic or foreign nonprofit limited liability companies, societies, or organizations engaged in activities substantially similar to those of the dissolving or liquidating nonprofit limited liability company as the court may direct; and

(d) Any remaining assets may be distributed to those persons, societies, organizations, or domestic or foreign limited liability companies, whether for profit or nonprofit, specified in the plan of distribution adopted or, if no plan of distribution has been adopted, as the court may direct.

(4) The court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the nonprofit limited liability company or the proceeds of any sale or disposition of the assets.

(5) A receiver of a nonprofit limited liability company appointed under the provisions of this section shall have authority to sue and defend in all courts in the receiver's own name as receiver of the nonprofit limited liability company. The court appointing the receiver shall have exclusive jurisdiction of the nonprofit limited liability company and its property, wherever situated.

SECTION 13. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A nonprofit limited liability company may be involuntarily dissolved by a decree of the Circuit Court in an action filed by the Attorney General when it is established that:

(1) The nonprofit limited liability company is guilty of abuse or misuse of its powers, privileges, or franchises, or the nonprofit limited liability company has become detrimental to the interest and welfare of this Commonwealth or its citizens; or

(2) The nonprofit limited liability company procured its articles of organization through fraud.

SECTION 14. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Any action brought by the Attorney General for the involuntary dissolution of a nonprofit limited liability company may be commenced in Franklin Circuit Court or in the Circuit Court of the county in which the registered office of the nonprofit limited liability company is situated.

SECTION 15. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, then the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement, and shall be void and unenforceable.

SECTION 16. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A corporation may be converted to a limited liability company pursuant to this section.

(2) The terms and conditions of the conversion of a corporation to a limited liability company shall be set forth in a written plan of conversion and approved by the board of directors and by the shareholders of the corporation.

(3) The plan of conversion shall set forth:

(a) The name of the corporation planning to convert;

(b) The terms and conditions of the conversion, including the articles of organization and the written operating agreement, if any, of the limited liability company into which the corporation will convert; and

(c) The manner and basis of converting the shares of the corporation into membership interests, obligations, or other securities of the limited liability company or into cash or other property in whole or part.

(4) The plan of conversion may set forth any other provision relating to the conversion.

(5) For a plan of conversion to be approved:

(a) The board of directors shall recommend the plan of conversion to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the shareholders with a plan; and

(b) The shareholders entitled to vote shall approve the plan.

(6) The board of directors may condition its submission of the proposed conversion on any basis.

(7) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with KRS 271B.7-050. The notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan of conversion and contain or be accompanied by a copy or summary of the plan.

(8) Unless KRS Chapter 271B, the articles of incorporation, or the board of directors acting pursuant to subsection (6) of this section, require a greater vote or vote by voting groups, the plan of conversion to be authorized shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(9) Separate voting by voting groups shall be required on a plan of conversion if the plan contains a provision that, if contained in a proposed amendment to the articles of incorporation, would require action by one (1) or more separate voting groups on the proposed amendment under KRS 271B.10-040.

(10) After a conversion is authorized, and at any time before articles of organization are filed, the planned conversion may be abandoned subject to any contractual rights, without further shareholder action, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, in the manner determined by the board of directors.

(11) After the conversion is approved, the corporation shall file articles of organization with the office of the Secretary of State that satisfy the requirements of Section 95 of this Act and also include:

(a) A statement that the corporation was converted to a limited liability company;

(b) Its former name;

(c) A statement that any assumed name held by the corporation has been canceled; and

(d) The designation, number of outstanding shares, and number of votes to be cast by each voting group entitled to vote separately on the plan of conversion and either the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

(12) The conversion shall take effect when the articles of organization are filed with the office of the Secretary of State or, subject to Section 100 of this Act, at a later date specified in the articles of organization.

SECTION 17. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A corporation that has been converted pursuant to this chapter shall be for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) All property and contract rights owned by, and all rights, privileges, and immunities of the converting corporation shall remain vested in the converted limited liability company without assignment, reversion, or impairment;

(b) All obligations of the converting corporation shall continue as obligations of the converted limited liability company;

(c) An action or proceeding pending against the converting corporation may be continued as if the conversion had not occurred, and the name of the converted limited liability company may be substituted in any pending action or proceeding for the name of the converting corporation; and

(d) The written operating agreement of the converted limited liability company shall be binding upon each person who becomes a member of the limited liability company.

SECTION 18. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may convert into a limited partnership as provided in KRS 362.2-1102(4).

(2) The terms and conditions of the conversion of a limited liability company into a limited partnership shall be approved by all of the members notwithstanding any provision to the contrary in the operating agreement.

SECTION 19. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Except as authorized by subsections (2) and (3) of this section, the name of a business trust or foreign business trust qualified to transact business in this Commonwealth shall be distinguishable from any name of record with the Secretary of State.

(2) A business trust or foreign business trust may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one (1) or more of the names described in subsection (1) of this section. The Secretary of State shall authorize use of the name applied for if:

(a) The other business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.

(3) A business trust or foreign business trust may use the name, including the fictitious name, of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the business trust or foreign business trust:

(a) Has merged with the other business entity;

(b) Has been formed by reorganization of the other business entity; or

(c) Has acquired all or substantially all of the assets, including the business name, of the other business entity.

(5) This chapter shall not control the use of assumed names.

(6) The filing of a declaration of trust or an application to transact authority in the Commonwealth under the particular name of a business trust or foreign business trust shall not automatically prevent the use of that name or protect that name from use by other persons.

SECTION 20. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic business trust and each foreign business trust authorized to transact business in the Commonwealth shall continuously maintain in this Commonwealth:

(a) A registered office that may be the same as any of its places of business; and

(b) A registered agent who shall be either:

1. An individual who is a resident of this Commonwealth and whose business office is identical with the registered office;

2. A domestic corporation, limited liability company, or not-for-profit corporation whose business office is identical with the registered office; or

3. A foreign corporation, limited liability company, or not-for-profit corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

SECTION 21. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A business trust, or a foreign business trust authorized to transact business in the Commonwealth, may change its registered office or registered agent, or both, upon filing in the office of the Secretary of State a statement of change on a form supplied by the Secretary of State that sets forth:

(a) The name of the business trust or foreign business trust;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of the new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the registered agent's business office to another place within this Commonwealth, the registered agent shall change the street address of the registered office of any business trust or foreign business trust of which the registered agent is a registered agent by notifying the business trust or foreign business trust in writing of the change, and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (1) of this section and recites that the business trust or foreign business trust has been notified of the change.

(3) The change of address of the registered office or registered agent shall be effective on delivery of the statement to the Secretary of State. The appointment of a new registered agent shall be effective on delivery of the statement to the Secretary of State and on receipt by the Secretary of State of evidence that the new registered agent has accepted appointment pursuant to Section 20 of this Act.

SECTION 22. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A registered agent may resign as registered agent by signing and delivering to the Secretary of State for filing the executed original and two (2) exact or conformed copies of a statement of resignation. The statement may also include a statement that the registered office is also discontinued.

(2) After filing the statement, the Secretary of State shall mail one (1) copy to the registered office, if not discontinued, and the other copy to the business trust at its principal office.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

SECTION 23. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A domestic or foreign business trust's registered agent shall be the business trust's agent for service of process, notice, or demand required or permitted by law to be served on the business trust.

(2) If a domestic or foreign business trust has no registered agent in this Commonwealth, or the registered agent cannot with reasonable diligence be served, the business trust may be served by registered or certified mail, return receipt requested, addressed to the business trust at its principal office. Service shall be perfected under this subsection at the earliest of:

- ***(a) The date the business trust receives the mail;***
- ***(b) The date shown on the return receipt, if signed on behalf of the business trust; or***
- ***(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.***

(3) This section shall not prescribe the only means, or necessarily the required means, of serving a domestic or foreign business trust.

SECTION 24. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic business trust, and each foreign business trust authorized to transact business in this Commonwealth, shall deliver to the Secretary of State for filing an annual report that sets forth:

- ***(a) The name of the business trust and the state or country under whose law it is organized;***
- ***(b) The address of its registered office and the name of its registered agent at that office in this state;***
- ***(c) The address of its principal office; and***
- ***(d) The names and business addresses of its trustees.***

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the business trust.

(3) With respect to a business trust organized or a foreign business trust first qualifying to transact business on or after the effective date of this Act, the first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic business trust was organized or a foreign business trust was authorized to transact business. A business trust organized or a foreign business trust qualified to transact business on or before the effective date of this Act shall file its first annual report between January 1 and June 30, 2008. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign business trust in writing and return the report to it for correction.

(5) A domestic or foreign business trust may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State.

(6) The filing fee for an annual report or an amended annual report is fifteen dollars ($15.00).

SECTION 25. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may commence a proceeding to administratively dissolve a business trust if:

- ***(a) The business trust does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;***
- ***(b) The business trust is without a registered agent or registered office in Kentucky for at least sixty (60) days; or***
- ***(c) The business trust does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.***

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a business trust, the Secretary of State shall serve the business trust with written notice of the determination.

- ***(b) If the business trust does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the business trust by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the business trust by mailing the notice by first class mail to the business trust at its registered office.***

(3) (a) A business trust administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the business trust and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated;

3. Contain a certificate from the Kentucky Department of Revenue stating that all taxes owed by the business trust have been paid; and

4. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report.

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and

2. Serve a copy on the business trust.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the business trust shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a business trust's application for reinstatement following administrative dissolution, the Secretary of State shall serve the business trust with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the business trust at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The business trust may appeal the denial of reinstatement to the Circuit Court of the county where the business trust's principal office, or, if there is none in Kentucky, its registered office in Kentucky, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and

2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the business trust's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

SECTION 26. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the Constitution of this Commonwealth:

(a) Except as provided in subsection (2) of this section, the laws of the state or other jurisdiction under which a foreign business trust is organized shall govern its organization and internal affairs, including the liability of its trustees and beneficial owners for the debts and obligations of the business trust and the inspection by a trustee or a beneficial owner of the books and records of the business trust; and

(b) A foreign business trust shall not be denied registration by reason of any difference between the laws of another jurisdiction under which a foreign business trust is organized and the laws of this Commonwealth.

(2) A certificate of authority obtained pursuant to this chapter shall not authorize a foreign business trust to exercise any powers or engage in any business that a domestic business trust is forbidden to exercise or engage in by the laws of this Commonwealth.

SECTION 27. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A foreign business trust shall not transact business in this Commonwealth until it obtains a certificate of authority from the Secretary of State.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending, or settling any action, suit, or proceeding;

(b) Holding meetings of its members or managers or carrying on other activities concerning its internal affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the business trust's securities, or maintaining trustees or depositories with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail, through employees or agents, or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;

(g) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; or

(k) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section shall not be considered exhaustive. This section shall not apply in determining the contracts or activities that may subject a foreign business trust to service of process or taxation in this Commonwealth or to regulation under any other law of this Commonwealth.

(4) The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210.

SECTION 28. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A foreign business trust transacting business in this Commonwealth without a certificate of authority shall not maintain an action, suit, or proceeding in any court in this Commonwealth until it obtains a certificate of authority.

(2) The successor to a business trust that transacted business in this Commonwealth without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this Commonwealth until the foreign business trust or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign business trust, its successor, or assignee, until it determines whether the foreign business trust or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the business trust or its successor obtains the certificate of authority.

(4) A foreign business trust shall be liable for a civil penalty of two dollars ($2) for each day, but not to exceed a total of five hundred dollars ($500) for each year, it transacts business in this Commonwealth without a certificate of authority. The Attorney General may collect all penalties due under this subsection.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign business trust to obtain a certificate of authority shall not impair the validity of any contract or act of the foreign business trust or prevent it from defending any proceeding in this Commonwealth.

SECTION 29. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A foreign business trust may apply for a certificate of authority to transact business in this Commonwealth by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign business trust, or if its name is unavailable for use in this Commonwealth, a name that satisfies the requirements of Section 19 of this Act;

(b) The name of the state or country under whose law it is organized;

(c) Its date of organization and, if the business trust has a specific date of dissolution, the latest date upon which it is to dissolve;

(d) The street address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign business trust;

(e) The address of its registered office in this Commonwealth and the name of its registered agent at that office;

(f) The names and usual business addresses of its current trustees; and

(g) A statement that, as of the date of filing, the foreign business trust validly exists as a business trust under the laws of the jurisdiction of its organization.

(2) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the application for a certificate of authority.

SECTION 30. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A foreign business trust authorized to transact business in this Commonwealth shall obtain an amended certificate of authority from the Secretary of State if it changes:

(a) Its name;

(b) The latest date on which it is to dissolve; or

(c) The state or country of its organization.

(2) The requirements of Section 29 of this Act for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

SECTION 31. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of authority shall authorize the foreign business trust to which it is issued to transact business in this Commonwealth subject to the right of the Commonwealth to revoke the certificate as provided in this chapter.

(2) A foreign business trust with a valid certificate of authority shall have the same but no greater rights as, and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same

duties, restrictions, penalties, and liabilities now or later imposed on, a domestic business trust.

(3) This chapter shall not authorize this Commonwealth to regulate the organization or internal affairs of a foreign business trust authorized to transact business in this Commonwealth.

SECTION 32. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) If the name of a foreign business trust does not satisfy the requirements of Section 19 of this Act, the foreign business trust, to obtain or maintain a certificate of authority to transact business in this Commonwealth may use a fictitious name to transact business in this Commonwealth if its real name is unavailable and it delivers to the Secretary of State for filing a certificate by a trustee that the business trust has adopted the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the name, including a fictitious name, of a foreign business trust shall be distinguishable from the name of any other business entity upon the records of the Secretary of State.

(3) A foreign business trust may apply to the Secretary of State for authorization to use in this Commonwealth the name of another business entity, organized or authorized to transact business in this Commonwealth, that is not distinguishable upon the Secretary's records from the name applied for. The Secretary of State shall authorize use of the name applied for if:

(a) The business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying business trust; or

(b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.

(4) A foreign business trust may use in this Commonwealth the name, including the fictitious name, of another business entity that is used in this Commonwealth if the business entity is organized or authorized to transact business in this Commonwealth and the foreign business trust:

(a) Has merged with the other business entity;

(b) Has been formed by reorganization of the business entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other business entity.

(5) If a foreign business trust authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and obtains an amended certificate of authorization under Section 30 of this Act.

SECTION 33. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

Each foreign business trust authorized to transact business in this Commonwealth shall continuously maintain in this Commonwealth:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this Commonwealth and whose business office is identical with the registered office;

(b) A domestic corporation, not-for-profit corporation, or limited liability company whose business office is identical with the registered office; or

(c) A foreign corporation, not-for-profit corporation, or limited liability company authorized to transact business in this Commonwealth whose business office is identical with the registered office.

(3) The registered agent shall execute and deliver to the Secretary of State a document accepting the agency appointment, and the appointment of the agent shall not be effective until delivered to the Secretary of State.

SECTION 34. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A foreign business trust authorized to transact business in this Commonwealth may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of its new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of its business office, the agent shall change the street address of the registered office of any foreign business trust for which the agent is the registered agent by notifying the business trust in writing of the change and signing, either manually or in facsimile, and delivering to the Secretary of State for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the business trust has been notified of the change.

SECTION 35. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign business trust may resign its agency appointment by signing and delivering to the Secretary of State for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(2) After filing the statement, the Secretary of State shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The Secretary of State shall mail the other copy to the foreign business trust at its principal office address shown in its most recent annual report.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed. A foreign business trust that fails to maintain a registered agent in this Commonwealth shall be subject to revocation of its certificate of authority under Section 38 of this Act.

SECTION 36. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign business trust authorized to transact business in this Commonwealth shall be the company's agent for service of process, notice, or demand required or permitted by law to be served on the foreign business trust.

(2) A foreign business trust may be served by registered or certified mail, return receipt requested, addressed to the appropriate representative of the foreign business trust at its principal office shown in its application for a certificate of authority or in its most recent annual report, if the foreign business trust:

(a) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(b) Has withdrawn from transacting business in this Commonwealth under Section 37 of this Act; or

(c) Has had its certificate of authority revoked under Section 39 of this Act.

(3) Service is perfected under subsection (2) of this section at the earliest of:

(a) The date the foreign business trust receives service by mail;

(b) The date shown on the return receipt, if signed on behalf of the foreign business trust; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(4) This section shall not prescribe the only means, or necessarily the required means, of serving a foreign business trust.

SECTION 37. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A foreign business trust authorized to transact business in this Commonwealth shall not withdraw from this Commonwealth until it obtains a certificate of withdrawal from the Secretary of State.

(2) A foreign business trust authorized to transact business in this Commonwealth may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign business trust and the name of the state or country under whose law it is organized;

(b) A statement that it is not transacting business in this Commonwealth and that it surrenders its authority to transact business in this Commonwealth;

(c) A statement that it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this Commonwealth;

(d) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under paragraph (c) of subsection (2) or subsection (3) of this section; and

(e) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(3) After the withdrawal of the business trust is effective, service of process on the Secretary of State under this section shall be service on the foreign business trust. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign business trust at the mailing address set forth under subsection (2) of this section.

SECTION 38. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

The Secretary of State may commence a proceeding under Section 39 of this Act to revoke the certificate of authority of a foreign business trust authorized to transact business in this Commonwealth if:

(1) The foreign business trust does not file its annual report to the Secretary of State within sixty (60) days after it is due;

(2) The foreign business trust is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;

(3) The foreign business trust does not inform the Secretary of State under Section 33 and 34 of this Act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance;

(4) A trustee of the business trust or person organizing the foreign business trust signed a document the trustee or person knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing; or

(5) The Secretary of State receives a duly-authenticated certificate from the Secretary of State or other official having custody of business trust records in the state or country under whose law the foreign business trust is organized stating that it has been dissolved or disappeared as the result of a merger or other event.

SECTION 39. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) If the Secretary of State determines that one (1) or more grounds exist under Section 38 for revocation of a certificate of authority, the Secretary of State shall serve the foreign business trust with written notice of its determination by mailing the notice by first-class mail to the foreign business trust at its principal place of business address as shown on the records of the Secretary of State.

(2) If the foreign business trust does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after the mailing of the notice, the Secretary of State shall revoke the foreign business trust's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy to the foreign business trust by mailing notice by first-class mail to the foreign business trust at its principal place of business address as shown on the records of the Secretary of State.

(3) The authority of a foreign business trust to transact business in this Commonwealth shall cease on the date shown on the certificate of revocation.

(4) The Secretary of State's revocation of a foreign business trust's certificate of authority shall have the effect of appointing the Secretary of State as the foreign business trust's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign business trust was authorized to transact business in this Commonwealth. Service of process on the Secretary of State under this subsection shall be service on the foreign business trust. Upon receipt of process, the Secretary of State shall mail a copy of the process to the appropriate representative of the foreign business trust at its principal office as shown in its most recent annual report or in any subsequent communication received from the foreign business trust stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(5) Revocation of a foreign business trust's certificate of authority shall not terminate the authority of the registered agent of the foreign business trust.

SECTION 40. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A foreign business trust may appeal the Secretary of State's revocation of its certificate of authority to the Franklin Circuit Court within thirty (30) days after the service of certificate of revocation. The foreign business trust may petition the court to set aside the revocation by attaching to the petition copies of its certificate of authority and the Secretary of State's certificate of revocation.

(2) The court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

Section 41. KRS 14.105 is amended to read as follows:

(1) The Secretary of State may accept electronic signatures to meet the filing requirements for a:

  (a) Corporation as required in KRS Chapter 271B;

  (b) Nonprofit corporation as required in KRS Chapter 273;

  (c) Professional service corporation as required in KRS Chapter 274;

  (d) Limited liability company as required in KRS Chapter 275;~~[and]~~

  (e) Partnership as required in KRS Chapter 362*;*

  (f) Partnership as required in subchapter 1 of KRS Chapter 362;

  (g) Limited partnership as required in subchapter 2 of KRS Chapter 362;

  (h) Cooperative corporations and associations as required in KRS Chapter 272;

  (i) Business trust as required in KRS Chapter 386;

  (j) Rural electric and rural telephone cooperative corporation as required in KRS Chapter 279; and

  (k) Assumed name filing under KRS Chapter 365.

(2) The electronic signature shall satisfy the requirements set forth in KRS 369.101 to 369.120.

Section 42. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of the Department of Revenue;

(2) "Department" means the Department of Revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) "Modified gross income" means the greater of:

   (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:

      1. Include interest income derived from obligations of sister states and political subdivisions thereof; and

      2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

   (b) Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

   (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

   (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

   (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

   (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

   (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

   (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

   (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

   (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

   (i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

      The "applicable amount" shall be:

         a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

         b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

         c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars

($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars ($41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner; and

(t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal

Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and

(n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and

(g) Any deduction prohibited by KRS 141.205;

(14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;

(c) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(d) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:

1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
3. A foreign limited liability company as defined in KRS 275.015[~~(6)~~];
4. A limited liability company as defined in KRS 275.015[~~(8)~~];
5. A professional limited liability company as defined in KRS 275.015[~~(18)~~];

6. A foreign limited partnership as defined in KRS 362.2-102(9);

7. A limited partnership as defined in KRS 362.2-102(14);

8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or(8);

9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;

10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;

11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;

12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and

13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

(25) "Doing business in this state" includes but is not limited to:

(a) Being organized under the laws of this state;

(b) Having a commercial domicile in this state;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services in this state;

(e) Maintaining an interest in a pass-through entity doing business in this state;

(f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or

(g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

(26) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;

(27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code; and

(28) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity.

Section 43. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation, a partnership, and a limited partnership if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, limited partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

  (a) Manufacturing;

  (b) Transportation, communications and public utilities;

  (c) Wholesale and retail trade;

  (d) Finance, insurance, and real estate; and

  (e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

    1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

    2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

    3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

    4. The new construction of an electric generation facility;

  (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, [~~registered~~]limited[~~ liability~~] partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;

(23) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(24) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 44. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Affiliate" has the same meaning as in KRS 154.22-010;

(2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(3) "Approved costs" means:

 (a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:

  1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

  2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

  3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

  4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

  5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

  6. All other costs of a nature comparable to those described above; or

 (b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(5) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

 (a) Manufacturing;

 (b) Transportation, communications, and public utilities;

 (c) Wholesale and retail trade;

 (d) Finance, insurance, and real estate; and

 (e) Services;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Economic development project" or "project" means:

 (a) A new or expanded service or technology activity conducted at a new or expanded site by:

  1. An approved company; or

  2. An approved company and its affiliate or affiliates; or

 (b) Any of the following activities of an approved company engaged in manufacturing:

  1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

  2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided,

however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(9) "Eligible company" means any corporation, limited liability company, partnership, ~~[registered]~~limited~~[liability]~~ partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(10) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(11) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(12) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(13) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(14) "Local government" means a city, county, or urban-county government;

(15) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(18) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(20) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(21) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;

(22) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(23) (a) “Service or technology” means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;

(24) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;

(25) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project;

(26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 45. KRS 176.150 is amended to read as follows:

(1) No applicant shall be given a certificate of eligibility unless his financial statement and the investigation made by the department show that he possesses net current assets or working capital sufficient in the judgment of the department to render it probable that he can satisfactorily execute his contracts and meet obligations therein incurred. All applications for certificates shall expressly authorize the department to obtain all information which it deems pertinent with respect to the financial status, assets, and liabilities of the applicant from any persons having business transactions with the applicant, and shall expressly authorize all those persons to furnish any information requested from them by the department.

(2) No applicant shall be given a certificate of eligibility until the applicant provides the secretary of the Transportation Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the applicant will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

(3) Certificates of eligibility shall be issued without reference to the residence of applicants and the administrative regulations regarding the issuance of certificates shall apply equally to residents and nonresidents. A certificate of eligibility shall not be denied to any applicant upon the sole issue of nationality or residence.

(4) When the applicant is a foreign corporation, ***limited liability company, or limited partnership***, the application shall be accompanied by a certificate from the Secretary of State ***of the jurisdiction in which it is organized certifying that it is validly existing and in good standing and a certificate from the Kentucky Secretary of State certifying*** that ***it***[~~such corporation~~] is authorized to ***transact business in the Commonwealth of Kentucky***[~~do business in the state in which it is incorporated~~].

Section 46. KRS 271B.1-200 is amended to read as follows:

(1) A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(2) This chapter must require or permit filing the document in the office of the Secretary of State.

(3) The document shall contain the information required by this chapter. It may contain other information as well.

(4) The document shall be typewritten, printed, or electronically transmitted. If the document is electronically transmitted, the document shall be in a format that can be retrieved or reproduced in typewritten or printed form.

(5) The document shall be in the English language. A corporate name may be in a language other than English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations, if not in English, shall be accompanied by a reasonably authenticated English translation.

(6) The document shall be executed:

(a) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in

which he signs. The document may but need not contain:

(a) A corporate seal of the corporation;

(b) An attestation, acknowledgment, or verification; or

(c) A statement regarding the preparer of the document which complies with KRS 382.335.

(8) If the Secretary of State has prescribed a mandatory form for the document under KRS 271B.1-210, the document shall be in or on the prescribed form.

(9) The document shall be delivered to the office of the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If the document is filed in typewritten or printed form and not transmitted electronically, the Secretary of State may require one (1) exact or conformed copy to be delivered with the document, except as provided in KRS 271B.5-030 and 271B.15-090.

(10) One (1) exact or conformed paper, but not electronic, copy of the document shall then be filed with and recorded by the county clerk of the county in which the registered office of the corporation is situated.

(11) When the document is delivered to the office of the Secretary of State for filing, the correct filing fee, the organization tax, and any penalty required by this chapter or other law to be collected by the office of the Secretary of State with the document shall be paid or provision for payment shall be made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, the liability shall not be finally discharged until the Secretary of State receives final payment or credit of collectible funds.

(12) Whenever a provision of KRS Chapter 271B permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(a) The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document;

(b) The facts may include, but are not limited to:

1. Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

2. A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

3. The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(c) As used in this subsection:

1. "Filed document" means a document filed with the Secretary of State under any provision of KRS Chapter 271B except Subtitle 15 or Section 74 of this Act; and

2. "Plan" means a plan of nonprofit conversion as provided for in KRS 273.382, conversion into an LLC as provided for in Section 16 of this Act, merger, or of share exchange.

(d) The following provisions of a plan or filed document shall not be made dependent on facts outside the plan or filed document:

1. The name and address of any person required in a filed document;

2. The registered office of any entity required in a filed document;

3. The registered agent of any entity required in a filed document;

4. The number of authorized shares and designation of each class or series of shares;

5. The effective date of a filed document; or

6. Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(e) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in paragraph (b)1. of this subsection or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the Secretary of State articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

Section 47. KRS 271B.1-210 is amended to read as follows:

(1) The Secretary of State may prescribe and furnish on request forms for:

(a) An application for a certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation's application for a certificate of withdrawal;

(d) A change of registered office or registered agent;[~~ and~~]

(e) The annual report*;*

(f) An amendment to the annual report;

(g) A change of principal address form; and

(h) An amended application for certificate of authority.

If the Secretary of State so requires, use of these forms shall be mandatory.

(2) The Secretary of State may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use shall not be mandatory.

Section 48. KRS 271B.1-220 is amended to read as follows:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a)	Articles of incorporation	$ 40
(b)	Application for use of indistinguishable name	$ 20
(c)	Application *or renewal of application* for reserved name	$ 15
(d)	*Cancellation of application for reserved name*	*$ 10*
(e)	Notice of transfer of reserved name	$ 15
(f)[~~(e)~~]	Application for registered name	$ 36
(g)[~~(f)~~]	Application for renewal of registered name	$ 36
(h)[~~(g)~~]	Corporation's statement of change of registered agent or registered office, or both	$ 10
(i)	*Corporation's statement of change of principal office address*	*$ 10*
(j)[~~(h)~~]	Agent's statement of change of registered office for each affected corporation	$ 10
	not to exceed a total of	$1,000
(k)[~~(i)~~]	Amendment of articles of incorporation	$ 40
(l)[~~(j)~~]	Restatement of articles of incorporation	$ 40
(m)[~~(k)~~]	Amended and restated articles	$ 80
(n)[~~(l)~~]	Articles of merger or share exchange	$ 50
(o)[~~(m)~~]	Articles of dissolution	$ 40
(p)[~~(n)~~]	Articles of revocation of dissolution	$ 15
(q)[~~(o)~~]	Reinstatement penalty following administrative dissolution	$ 100
(r)[~~(p)~~]	Application for certificate of authority	$ 90
(s)[~~(q)~~]	Application for amended certificate of authority	$ 40
(t)[~~(r)~~]	Application for certificate of withdrawal	$ 40
(u)[~~(s)~~]	Annual report	$ 15
(v)	*Amendment to annual report*	*$ 10*
(w)[~~(t)~~]	Articles of correction	$ 20
(x)[~~(u)~~]	Certificate of existence or authorization	$ 10
(y)[~~(v)~~]	Any other document required or permitted to be filed by this chapter	$ 15
(z)[~~(w)~~]	Agent's statement of resignation	No fee
(aa)[~~(x)~~]	Certificate of administrative dissolution	No fee
(bb)[~~(y)~~]	Certificate of reinstatement	No fee
(cc)[~~(z)~~]	Certificate of judicial dissolution	No fee
(dd)[~~(aa)~~]	Certificate of revocation of authority to transact business	No fee

(2) The Secretary of State shall collect a fee of ten dollars ($10) each time process is served on him under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the

proceeding.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(a) ***Five dollars ($5) per request for the first five (5) pages and*** fifty cents ($0.50) a page for ***each page thereafter***[~~copying~~]; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to corporations.

Section 49. KRS 271B.1-250 is amended to read as follows:

(1) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of KRS 271B.1-200, the Secretary of State shall file it.

(2) The Secretary of State files a document by recording it as filed on the date and time of receipt. After filing a document, except as provided in KRS 271B.5-030 and 271B.15-090, the Secretary of State shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgment of the date and time of filing.

(3) If the Secretary of State refuses to file a document, ***if filed by paper, the Secretary of State***[~~he~~] shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for ***the***[~~his~~] refusal. ***If the document was filed electronically, the Secretary of State's brief explanation of the reason for the refusal may be returned electronically.***

(4) The Secretary of State's duty to file documents under this section shall be ministerial. ***The***[~~His~~] filing or refusal to file a document shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Section 50. KRS 271B.1-290 is amended to read as follows:

(1) A person commits an offense ***by signing***[~~if he signs~~] a document ***knowing it***[~~he knows~~] is false in any material respect with intent that the document be delivered to the Secretary of State for filing.

(2) An offense under this section shall be a misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

Section 51. KRS 271B.1-400 is amended to read as follows:

In this chapter:

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlining, shall be considered conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter.

(5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

(6) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" is defined in KRS 271B.1-410.

(8) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(9) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

(10) "Entity" includes ***a domestic or foreign*** corporation[~~ and foreign corporation~~]; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(11) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(12) "Governmental subdivision" includes authority, county, district, and municipality.

(13) "Includes" denotes a partial definition.

(14) "Individual" ***means a natural person and*** includes the estate of an incompetent or deceased individual.

(15) "Means" denotes an exhaustive definition.

(16) ***"Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity.***

(17) "Notice" is defined in KRS 271B.1-410.

(18)[~~(17)~~] "Person" includes individual and entity.

(19)[~~(18)~~] "Principal office" means the office (in or out of this state) so designated in writing to the Secretary of State where the principal executive offices of a domestic or foreign corporation are located.

(20)[~~(19)~~] "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(21) "Real name" shall have the meaning set forth in Section 164 of this Act.

(22)[~~(20)~~] "Record date" means the date established under Subtitle 6 or 7 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed.

(23)[~~(21)~~] "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under subsection (3) of KRS 271B.8-400 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(24)[~~(22)~~] "Share" means the unit into which the proprietary interests in a corporation are divided.

(25)[~~(23)~~] "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(26)[~~(24)~~] "Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature.

(27)[~~(25)~~] "State" when referring to a part of the United States, includes a state and Commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

(28)[~~(26)~~] "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(29)[~~(27)~~] "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(30)[~~(28)~~] "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

Section 52. KRS 271B.1-410 is amended to read as follows:

(1) Notice under this chapter shall be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.

(2) Notice may be communicated in person; by mail or other method of delivery; or by telephone, voice mail, or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, shall be effective:

(a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders; or

(b) When electronically transmitted to the shareholder in a manner authorized and in accordance with the shareholder's instructions, if any.

(4) Written notice to a domestic or foreign corporation (authorized to transact business in this state) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, ***in the case of a domestic corporation that has not yet delivered an annual report, in its articles of incorporation, or,*** in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(5) Except as provided in subsections (3) and (4) of this section, written notice, if in a comprehensible form, shall be effective at the earliest of the following:

(a) When received;

(b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed; or

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(6) Oral notice shall be effective when communicated if communicated in a comprehensible manner.

(7) If this chapter prescribes notice requirements for particular circumstances, those requirements, shall govern. If articles of

incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements shall govern.

Section 53. KRS 271B.2-030 is amended to read as follows:

(1) Unless a delayed effective date is specified, the corporate existence shall begin when the articles of incorporation are filed by the Secretary of State.

(2) The Secretary of State's filing of the articles of incorporation shall be conclusive proof that the incorporators satisfied all conditions precedent to incorporation, except in ***a proceeding***[~~proceedings~~] by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Section 54. KRS 271B.2-050 is amended to read as follows:

(1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an ***organizational***[~~organization~~] meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an ***organizational***[~~organization~~] meeting at the call of a majority of the incorporators:

1. To elect directors and complete the organization of the corporation; or

2. To elect a board of directors who shall complete the organization of the corporation.

(2) Action required or permitted by this chapter to be taken by incorporators at an ***organizational***[~~organization~~] meeting may be taken without a meeting if the action taken is evidenced by one (1) or more written consents describing the action taken and signed by each incorporator.

(3) An ***organizational***[~~organization~~] meeting may be held in or out of this state.

Section 55. KRS 271B.2-070 is amended to read as follows:

(1) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (4) of this section. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

(a) Procedures for calling a meeting of the ***board of*** directors;

(b) Quorum requirements for the meeting; and

(c) Designation of additional or substitute directors.

(2) All provisions of the regular bylaws consistent with the emergency bylaws[~~ shall~~] remain effective during the emergency. The emergency bylaws ***are***[~~shall~~] not[~~ be~~] effective after the emergency ends.

(3) Corporate action taken in good faith in accordance with the emergency bylaws:

(a) Shall bind the corporation; and

(b) Shall not be used to impose liability on a corporate director, officer, employee, or agent.

(4) An emergency ***exists***[~~shall exist~~] for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

Section 56. KRS 271B.3-010 is amended to read as follows:

(1) Every corporation incorporated under this chapter ***has***[~~shall have~~] the purpose of engaging in any lawful business[~~,~~] unless a more limited purpose is set forth in the articles of incorporation.

(2) A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this chapter only if permitted by, and subject to all limitations of, the other statute.

Section 57. KRS 271B.4-010 is amended to read as follows:

(1) A corporate name:

(a) Shall contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of like import in another language; and

(b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by KRS 271B.3-010 and its articles of incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable[~~ upon the records of the Secretary of State~~] from ***any name of record with the Secretary of State***[~~:~~

~~(a) The corporate name of a corporation incorporated or authorized to transact business in this state;~~

~~(b) A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-030;~~

~~(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real~~

~~name is unavailable;~~

~~(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and~~

~~(e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365]~~.

(3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon ***the Secretary of State's***~~[this]~~ records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:

(a) The other ***entity***~~[corporation]~~ consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name (including the fictitious name) of another ***entity***~~[domestic or foreign corporation]~~ that is used in this state if the other ***entity***~~[corporation]~~ is incorporated or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other ***entity***~~[corporation]~~;

(b) Has been formed by reorganization of the other ***entity***~~[corporation]~~; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other ***entity***~~[corporation]~~.

(5) This chapter does not control the use of ***assumed***~~[fictitious]~~ names.

(6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 58. KRS 271B.4-020 is amended to read as follows:

(1) A person may reserve the exclusive use of a corporate name, including a fictitious name, for a foreign corporation whose corporate name is not available, by delivering an application to the Secretary of State for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a ~~[nonrenewable]~~one hundred twenty (120) day period. ***During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.***

(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Secretary of State a signed notice of the transfer that states the name and address of the transferee.

(3) The holder of a reserved corporate name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 59. KRS 271B.4-030 is amended to read as follows:

(1) A foreign corporation may register its corporate name, or its corporate name with any addition required by KRS 271B.15-060, if the name is distinguishable upon the records of the Secretary of State ***as required under subsection (2) of Section 57 of this Act***~~[from the corporate names that are not available under subsection (2)(c) of KRS 271B.4-010]~~.

(2) A foreign corporation shall register its corporate name, or its corporate name with any addition required by KRS 271B.15-060, by delivering to the Secretary of State for filing an application:

(a) Setting forth its corporate name, or its corporate name with any addition required by KRS 271B.15-060, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) Accompanied by a certificate of existence (or a document of similar import) from the state or country of incorporation.

(3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application when filed shall renew the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration shall terminate when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Section 60. KRS 271B.6-010 is amended to read as follows:

(1) The articles of incorporation shall prescribe the classes of shares ***and series of shares within a class,*** and the number of shares of each class ***and series*** that the corporation is authorized to issue. If more than one (1) class ***or series*** of shares is authorized, the articles of incorporation shall prescribe a distinguishing designation for each class ***or series***, and, prior to the issuance of shares of a class ***or series***, the preferences, limitations, and relative rights of that class ***or series*** must be described in the articles of incorporation. All shares of a class shall have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by KRS 271B.6-020.

(2) The articles of incorporation shall authorize:

(a) One (1) or more classes ***or series*** of shares that together have unlimited voting rights; and

(b) One (1) or more classes ***or series*** of shares (which may be the same class or classes as those with voting rights) that together are entitled to receive the net assets of the corporation upon dissolution.

(3) The articles of incorporation may authorize one (1) or more classes ***or series*** of shares that:

(a) Have special, conditional, or limited voting rights, or no right to vote, except to the extent ***otherwise provided***[~~prohibited~~] by this chapter;

(b) Are redeemable or convertible as specified in the articles of incorporation:

1. At the option of the corporation, the shareholder, or another person or upon the occurrence of a designated event;

2. For cash, indebtedness, securities, or other property; or

3. In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events;

(c) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative; or

(d) Have preference over any other class ***or series*** of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

(4) ***Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with subsection (12) of Section 46 of this Act.***

(5) The description of the designations, preferences, limitations, and relative rights of share classes in subsection (3) of this section shall not be considered exhaustive.

Section 61. KRS 271B.6-270 is amended to read as follows:

(1) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(2) A restriction on the transfer or registration of transfer of shares shall be valid and enforceable against the holder, or a transferee of the holder, if the restriction is authorized by this section, and the holder or transferee has actual knowledge of the restriction or its existence is noted conspicuously on the front or back of the certificate, or is contained in the information statement required by subsection (2) of KRS 271B.6-260. Unless so noted ***or contained***, a restriction is not enforceable against a person without knowledge of the restriction.

(3) A restriction on the transfer or registration of transfer of shares shall be authorized:

(a) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(b) To preserve exemptions under federal or state securities law;

(c) In connection with shares issued by the corporation to its officers, directors, employees, or independent contractors, including as equity based-compensation under the Internal Revenue Code; or

(d) For any other reasonable purpose.

(4) A restriction on the transfer or registration of transfer of shares may without limitation:

(a) Obligate the shareholder first to offer the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;

(b) Obligate the corporation or other persons (separately, consecutively, or simultaneously) to acquire or transfer the restricted shares;

(c) Obligate a shareholder to transfer the restricted shares to the corporation or other persons for an agreed price or a price based on a valuation formula, including an obligation to transfer the shares for an amount equal to the original consideration paid for the shares;

(d) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(e) Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(5) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Section 62. KRS 271B.7-210 is amended to read as follows:

(1) Except as provided in subsections (2) and (4) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, shall be entitled to one (1) vote on each matter voted on at a shareholders' meeting. Only shares shall be entitled to vote.

(2) Absent special circumstances, the shares of a corporation shall not be entitled to vote if they are owned, directly or indirectly, by ***an entity***~~[a second corporation]~~, domestic or foreign, and the~~[first]~~ corporation ***controls***~~[owns]~~, directly or indirectly, ***the entity's determination to vote, and how to vote, the shares***~~[a majority of the shares entitled to vote for directors of the second corporation]~~.

(3) Subsection (2) of this section shall not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

(4) Redeemable shares shall not be entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

Section 63. KRS 271B.7-270 is amended to read as follows:

(1) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is provided for by this chapter.

(2) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect ***or proposed to be adopted, whichever is greater***.

Section 64. KRS 271B.7-400 is amended to read as follows:

(1) A person shall not commence a proceeding in the right of a domestic or foreign corporation unless he was a shareholder of the corporation when the transaction complained of occurred or unless he became a shareholder through transfer by operation of law from one who was a shareholder at that time. The derivative proceeding shall not be maintained if it appears that the person commencing the proceeding does not fairly and adequately represent the interests of the shareholders in enforcing the right of the corporation.

(2) A complaint in a proceeding brought in the right of a corporation shall be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why he did not make the demand. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(3) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given the shareholders affected.

(4) On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses (including counsel fees) incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

(5) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on his behalf.

(6) In any derivative proceedings in the right of a foreign corporation, the matters covered by this section shall be governed by the laws of the jurisdiction of incorporation.

Section 65. KRS 271B.8-220 is amended to read as follows:

(1) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(2) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least two (2) days' notice of the date, time, and place of the meeting. ***The notice need not***~~[Unless otherwise provided by the articles of incorporation or bylaws, the notice shall not be required to]~~ describe the purpose of the special meeting ***unless required by the articles of incorporation or bylaws***.

Section 66. KRS 271B.8-570 is amended to read as follows:

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee or agent of the corporation, is or was serving at the request of the corporation as a director, officer, ***manager,*** partner, trustee, employee, or agent of another ***entity, or of an***~~[foreign or domestic corporation, partnership, joint venture, trust,]~~ employee benefit plan, or other enterprise, against liability asserted against or incurred ~~[by him]~~in that capacity or arising from ***the***~~[his]~~ status as a director, officer, ***manager,*** employee, or agent, whether or not the corporation would have power to indemnify~~[him]~~ against the same liability under KRS 271B.8-510 or 271B.8-520.

Section 67. KRS 271B.13-020 is amended to read as follows:

(1) A shareholder shall be entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party:

1. If shareholder approval is required for the merger by KRS 271B.11-030 or the articles of incorporation and the shareholder is entitled to vote on the merger; or

2. If the corporation is a subsidiary that is merged with its parent under KRS 271B.11-040;

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;

(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one (1) year after the date of sale;

(d) ***Consummation of a plan of conversion of the corporation as provided for in Section 16 of this Act;***

(e) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

1. Alters or abolishes a preferential right of the shares to a distribution or in dissolution;

2. Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;

3. Excludes or limits the right of the shares to vote on any matter other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

4. Reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under KRS 271B.6-040;

(e) Any transaction subject to the requirements of KRS 271B.12-210 or exempted by KRS 271B.12-220(2); or

(f) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(2) A shareholder entitled to dissent and obtain payment for his shares under this chapter shall not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Section 68. KRS 271B.14-050 is amended to read as follows:

(1) A dissolved corporation shall continue its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind to its shareholders;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property among its shareholders according to their interests; and

(e) Doing every other act necessary to wind up and liquidate its business and affairs.

(2) Dissolution of a corporation shall not:

(a) Transfer title to the corporation's property;

(b) Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;

(c) Subject its directors or officers to standards of conduct different from those prescribed in Subtitle 8;

(d) Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;

(e) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(f) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution;

(g) Terminate the authority of the registered agent of the corporation; or

(h) Alter the obligations and responsibilities of the corporation as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns***; or*** *(i) Abate or suspend KRS 271B.6-220.*

Section 69. KRS 271B.14-210 is amended to read as follows:

(1) If the Secretary of State determines that one (1) or more grounds exist under KRS 271B.14-200 for dissolving a corporation, he shall serve the corporation with written notice of his determination, by mailing such notice by first class mail to the corporation at its ***principal place of business address***[~~registered office~~].

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which the notice was mailed, the Secretary of State shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its ***principal place of business address***[~~registered office~~].

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under KRS 271B.14-050 and notify claimants under KRS 271B.14-060 and 271B.14-070.

(4) The administrative dissolution of a corporation shall not terminate the authority of its registered agent.

Section 70. KRS 271B.14-220 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

(b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;

(d) Contain a certificate from the Department of Revenue reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

(4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

(5) A corporation administratively dissolved upon the expiration of its period of duration may, in the sixty (60) day period of subsection (2) of Section 69 of this Act, amend its articles to extend its period of duration or to delete its period of duration, which amendment will relate back to the day immediately preceding the expiration of the period of duration. A corporation which fails to so amend it's articles of incorporation in the sixty (60) day period of subsection (2) of Section 69 of this Act may not thereafter be reinstated, and shall liquidate its business and affairs under Section 68 of this Act and notify claimants under KRS 271B.14-060 and 271B.14-070.

Section 71. KRS 271B.15-010 is amended to read as follows:

(1) A foreign corporation, except a foreign insurance company, shall not transact business in this state until it obtains a certificate of authority from the Secretary of State.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending, or settling any proceeding;

(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one in the course of repeated transactions of a like nature; and

(k) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section is not exhaustive.

(4) This section shall not apply in determining the contracts or activities that may subject a foreign corporation to service of process or taxation in this Commonwealth or to regulation under any other law of this Commonwealth.

Section 72. KRS 271B.15-050 is amended to read as follows:

(1) A certificate of authority shall authorize the foreign corporation to which it is issued to transact business in this state subject, however, to the right of the state to revoke the certificate as provided in this chapter.

(2) A foreign corporation with a valid certificate of authority shall have the same but no greater rights and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character.

(3) This chapter shall not authorize this state to regulate the organization or internal affairs***, including the inspection of corporate books, records, and documents,*** of a foreign corporation authorized to transact business in this state.

Section 73. KRS 271B.15-060 is amended to read as follows:

(1) If the ***real***[~~corporate~~] name of a foreign corporation does not satisfy the requirements of KRS 271B.4-010, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:

(a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its ***real***[~~corporate~~] name for use in this state; or

(b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the ***real or fictitious***[~~corporate~~] name [~~(including a fictitious name)~~]of a foreign corporation shall be distinguishable upon the records of the Secretary of State from ***any name of record with the Secretary of State***[~~:~~

~~(a) The corporate name of a corporation incorporated or authorized to transact business in this state;~~

~~(b) A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-030;~~

~~(c) The fictitious name of another foreign corporation authorized to transact business in this state;~~

~~(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; or~~

~~(e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365~~].

(3) A foreign corporation may apply to the Secretary of State for authorization to use in this state ***a name***[~~the name of another corporation (incorporated or authorized to transact business in this state)~~] that is not distinguishable upon his records from the name applied for. The Secretary of State shall authorize use of the name applied for if:

(a) The other ***entity***[~~corporation~~] consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A foreign corporation may use in this state the name (including the fictitious name) of another domestic or foreign ***entity***[~~corporation~~] that is used in this state if the other ***entity***[~~corporation~~] is incorporated or authorized to transact business in this state and the foreign ***entity***[~~corporation~~]:

(a) Has merged with the other ***entity***[~~corporation~~];

(b) Has been formed by reorganization of the other ***entity***[~~corporation~~]; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other ***entity***[~~corporation~~].

(5) If a foreign corporation authorized to transact business in this state changes its ***real***[~~corporate~~] name to one that does not satisfy the requirements of KRS 271B.4-010, it shall not transact business in this state under the changed name until it adopts a ***fictitious*** name satisfying the requirements of KRS 271B.4-010 and obtains an amended certificate of authority under KRS 271B.15-040.

Section 74. KRS 271B.16-220 is amended to read as follows:

(1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the Secretary of State for filing an annual report that sets forth:

- (a) The name of the corporation and the state or country under whose law it is incorporated;
- (b) The address of its registered office and the name of its registered agent at that office in this state;
- (c) The address of its principal office; and
- (d) The names and business addresses of its directors and principal officers;

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.

(3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. ***For purposes of KRS 271B.1-280(2)(d), an annual report returned for correction shall not be deemed to have been delivered until it is returned and accepted by the Secretary of State.***

(5) A domestic or foreign corporation may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State.

Section 75. KRS 272.010 is amended to read as follows:

(1) As used in KRS 272.020 to 272.050:

- (a) "Cooperative corporation" means a business concern that distributes the net profit of its business by first paying a fixed dividend upon its stock, if any, and then prorating the remainder of its profits as patronage refunds to its stockholders, members or customers, as provided in bylaws;
- (b) "Patronage refund" means the portion of net profit returned to member patrons or to all patrons in proportion to their patronage. In the case of an employee cooperative in which only employees are voting members, "patronage" means the amount or value of work performed by an employee, as provided in bylaws;
- (c) "Stockholder" means the holder of voting stock in a cooperative corporation organized with shares;
- (d) "Member" means the holder of a membership in a cooperative corporation organized with memberships;
- (e) "Membership" means a lifetime payment made to a cooperative corporation to secure or provide services, not made in expectation of dividend or profit, and without any redemption value except at time of dissolution. The articles of incorporation or bylaws may specify the conditions under which a membership may be terminated;[~~ and~~]
- (f) "Nonprofit basis" means that no part of the income or profit of the cooperative corporation is distributable to its members, directors or officers except in the form of patronage refunds***;***
- ***(g) "Entity" includes a domestic or foreign corporation and corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business or statutory trust; estate; partnership; limited partnership; limited liability company; trust; two (2) or more persons having a joint or common economic interest; and a state, United States, and foreign government;***
- ***(h) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity; and***
- ***(i) "Real name" shall have the meaning set forth in Section 164 of this Act.***

(2) As used in KRS 272.360 to 272.510, unless the content for such requires otherwise, the term:

- (a) "Livestock" shall mean sheep, cattle, hogs, horses, jacks, mules, poultry or any other animal or bird commonly kept on the farm;
- (b) "Farmer" shall mean any individual, firm, partnership, ***limited partnership, limited liability company,*** corporation or farm management group which derives a portion or all of its income from the production of live stock domiciled on a farm within the Commonwealth;
- (c) "Member" shall include actual members of the association organized under KRS 272.360 to 272.510;
- (d) "Association" means any corporation organized under KRS 272.360 to 272.510; and
- (e) "Department" shall mean the Department of Agriculture.

(3) Associations organized under KRS 272.360 to 272.510 shall be termed nonprofit inasmuch as they are not organized to make profit for themselves.

Section 76. KRS 272.050 is amended to read as follows:

No corporation, ***partnership, limited partnership, limited liability company, or other entity***[~~association or company~~] doing business for profit in this state shall use the title "cooperative" as any part of its name unless it has complied with the provisions of

KRS 272.020 to 272.050.

Section 77. KRS 272.131 is amended to read as follows:

(1) The articles of incorporation of each association shall state:

(a) The name of the association;

(b) The purposes for which it is formed;

(c) The place where its principal business will be transacted;

(d) The period of duration, which may be perpetual. When the articles of incorporation fail to state the period of duration, it shall be considered perpetual. Any association heretofore or hereafter organized for a period less than perpetual, may, by amendment to its articles of incorporation, extend the period of its duration for a specified period or perpetually;

(e) The names and addresses (not less than five (5)) of those who are to serve as directors for the first term or until the election of their successors;

(f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rules applicable to all members by which the property rights and interests, respectively, of each member shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members in accordance with the general rules. These provisions of the articles of incorporation shall not be altered, amended, or repealed except by the affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by members present in person, or by proxy (if permitted by the bylaws), and voting thereon at any regular or special meeting; and

(g) If organized with capital stock, the authorized amount of the stock and the number of shares into which it is divided and the par value thereof. Capital stock may be divided into preferred and common stock. The articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and the privileges granted to each. No specific amount of the capital stock authorized is required to be subscribed before the association may transact business with other than its members; the board may determine the amount of capital stock to be issued as the business of the association may justify or demand, from time to time, within the amount of the total authorization.

(2) The articles of incorporation may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate with respect to its members, officers, or directors, and any other provisions relating to its affairs; but nothing set forth in this section shall be construed as limiting any of the rights or powers otherwise given to such associations.

(3) The articles of incorporation must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the laws of this state to take and certify acknowledgments of deeds and conveyances; and shall be filed and recorded in accordance with the statute relating to corporations generally; and when so filed, the articles of incorporation, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein, and of the due incorporation of the association. A copy of the articles of incorporation, indorsed by the secretary of state with the fact and time of recording in his office, shall be filed with the dean of the College of Agriculture of the University of Kentucky and with the Commissioner of the Department of Agriculture.

(4) Except as authorized by subsections (5) and (6) of this section, the name of an association shall be distinguishable from any name of record with the Secretary of State.

(5) An association may apply to the Secretary of State for authorization to use a name that is not distinguishable from a name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:

(a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(6) An association may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user association:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

(7) This chapter does not control the use of assumed names.

(8) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 78. KRS 272.390 is amended to read as follows:

Each association formed under KRS 272.360 to 272.510 must prepare and file articles of incorporation, setting forth:

(1) The name of the association.

(2) The place where its principal business will be transacted.

(3) The term for which it is to exist; the number of directors thereof which must not be less than five (5) and may be any number in excess thereof; the term of office of such directors; and the names and addresses of those who are to serve as incorporating directors for the first term, or until election and qualification of their successors.

(4) The property rights of the members and whether the interest of each member will be equal or unequal; and if unequal, the rule or rules applicable to all members by which the property rights and interests, respectively, of each member shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules.

(5) Except as authorized by subsections (6) and (7) of this section, the name of an association must be distinguishable from any name of record with the Secretary of State.

(6) An association may apply to the Secretary of State for authorization to use a name that is not distinguishable from any name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:

(a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying association; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(7) An association may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user association:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

(8) This chapter does not control the use of assumed names.

(9) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 79. KRS 273.161 is amended to read as follows:

As used in KRS 273.163 to 273.387, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS 273.163 to 273.387, except a foreign corporation;

(2) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state;

(3) "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers;

(4) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

(6) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;

(7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which group is designated;

(8) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs;

(9) "Principal office" means the office (in or out of this state) so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located;

(10) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation;

(11) "Individual" includes the estate of an incompetent or deceased individual;

(12) "Entity" includes ***a domestic or foreign*** corporation [~~and foreign corporation~~]; not-for-profit corporation; profit and not-for-profit unincorporated association; business ***or statutory*** trust, estate, partnership, ***limited partnership, limited liability company,*** trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and

foreign government; and

(13) "Person" includes individual and entity.

(14) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity; and

(15) "Real name" shall have the meaning set forth in Section 164 of this Act.

Section 80. KRS 273.177 is amended to read as follows:

(1) The corporate name shall include the word "corporation" or "incorporated" or the abbreviation "Inc.," or the word "company" or the abbreviation "Co."; but if the word "company" or the abbreviation "Co." is used, it may not be immediately preceded by the word "and" or the abbreviation "&." The provisions of this subsection shall not affect the right of any corporation existing on June 13, 1968, to continue the use of its name.

(2) Except as authorized by subsection (3) of this section, a corporate name shall be distinguishable[~~ upon the records of the Secretary of State~~] from ***any name of record with the Secretary of State***[~~:~~

~~(a) The corporate name of a corporation incorporated or authorized to transact business in this state;~~

~~(b) A corporate name reserved or registered under KRS 271B.1-300;~~

~~(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;~~

~~(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and~~

~~(e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365~~].

(3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable ***from a name of record with the Secretary of State***[~~upon his records from one (1) or more of the names described in subsection (2) of this section~~]. The Secretary of State shall authorize use of the name applied for if:

(a) The other ***entity***[~~corporation~~] consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) The corporate name shall not contain any word or phrase which indicates or implies that it is organized for any purpose not permitted under KRS 273.161 to 273.390.

(5) This chapter shall not control the use of ***assumed***[~~fictitious~~] names.

(6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.

(7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence; but the courts of this state having equity jurisdiction may, upon the application of the state or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.

Section 81. KRS 273.178 is amended to read as follows:

(1) A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the Secretary of State for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a nonrenewable period of one hundred twenty (120) days. ***Within thirty (30) days of the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.***

(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Secretary of State a signed notice of the transfer that states the name and address of the transferee.

(3) The holder of a reserved corporate name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 82. KRS 273.179 is amended to read as follows:

(1) A foreign corporation may register its corporate name, or its corporate name with any addition required by KRS 273.364, if the name is distinguishable upon the records of the Secretary of State ***as required by subsection (2) of Section 80 of this Act***[~~from the corporate names that are not available under KRS 273.177~~].

(2) A foreign corporation shall register its corporate name, or its corporate name with any addition required by KRS 273.364,

by delivering to the Secretary of State for filing an application:

(a) Setting forth its corporate name, or its corporate name with any addition required by KRS 273.364, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) Accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.

(3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application, when filed, shall renew the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration shall terminate when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Section 83. KRS 273.364 is amended to read as follows:

(1) If the corporate name of a foreign corporation does not satisfy the requirements of KRS 273.177, the foreign corporation, in order to obtain or maintain a certificate of authority to transact business in this state:

(a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in this state; or

(b) May use a fictitious name to transact business in this state, if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(2) Except as authorized by subsection (3) of this section, the corporate name, including a fictitious name, of a foreign corporation shall be distinguishable[~~ upon the records of the Secretary of State~~] from ***any name of record with the Secretary of State***[~~:~~

~~(a) The corporate name of a corporation incorporated or authorized to transact business in this state;~~

~~(b) A corporate name reserved or registered under KRS 273.178 and 273.179;~~

~~(c) The fictitious name of another foreign corporation authorized to transact business in this state;~~

~~(d) The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state; or~~

~~(e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365~~].

(3) A foreign corporation may apply[~~ to the Secretary of State~~] for authorization to use in this state ***a***[~~the~~] name[~~ of another corporation, incorporated or authorized to transact business in this state,~~] that is not distinguishable upon ***the***[~~his~~] records ***of the Secretary of State*** from the name applied for. The Secretary of State shall authorize use of the name applied for if:

(a) The other ***entity***[~~corporation~~] consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of KRS 273.177, it may not transact business in this state under the changed name until it adopts a name satisfying the requirements of KRS 273.177 and obtains an amended certificate of authority under KRS 273.3611.

Section 84. KRS 273.2521 is amended to read as follows:

(1) The Secretary of State may prescribe and furnish on request forms for:

(a) A certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation's application for a certificate of withdrawal;

(d) A change of registered office or registered agent;

(e) ***A change of the principle office address;***

(f) Application for a reservation of name;

(g) Application to renew a reservation of a name;

(h) The annual report***; and***

(i) An amendment of the annual report.

If the Secretary of State so requires, use of these forms shall be mandatory.

(2) The Secretary of State may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter. Use of these forms shall not be mandatory.

Section 85. KRS 273.3671 is amended to read as follows:

(1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the Secretary of State for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its directors and principal officers.

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.

(3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. ***For purposes of KRS 273.2527(2)(d), an annual report returned for correction shall not be deemed to have been delivered until it is returned to and accepted by the Secretary of State.***

(5) A domestic or foreign corporation may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State.

Section 86. KRS 274.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Foreign professional service corporation" means a corporation for profit organized for the purpose of rendering professional services under a law other than the law of this state;

(2) "Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which, prior to the passage of this chapter and by reason of law or a professional code of ethics, could not be performed by a corporation. The personal services which come within the provisions of this chapter are the personal services rendered by, but not limited to, certified public accountants, public accountants, chiropractors, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, architects, veterinarians, optometrists and attorneys-at-law;

(3) "Professional service corporation" means a corporation organized under this chapter;

(4) "Qualified person" means a natural person,[~~ general~~] partnership, limited liability company,[~~ limited liability partnership,~~] or professional service corporation which is eligible under this chapter to own shares issued by a professional service corporation; and

(5) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional service corporation is organized to render.

Section 87. KRS 274.015 is amended to read as follows:

(1) One (1) or more individuals, each of whom is licensed to render the same professional service or who are licensed to render related professional services such that applicable licensing laws and regulations would not prohibit the practice of such multiple professional services through a single business partnership, may incorporate and form a professional service corporation by filing articles of incorporation in the office of the Secretary of State. Such articles of incorporation shall meet the requirements of KRS Chapter 271B, and in addition to the information required by KRS 271B.2-020, such articles shall contain the following:

(a) The designation of the profession or professions to be practiced through the professional service corporation.

(b) The names and residence addresses of all the original shareholders of the professional service corporation.

(c) A statement by the incorporator or incorporators that each of the incorporators, shareholders, not less than one half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person within the meaning of this chapter.

(2) ***A***[~~Any~~] professional service corporation formed under the provisions of this chapter[~~ shall~~], except as this chapter may otherwise provide, ***shall*** have the same powers, authority, duties and ***liabilities***[~~liability~~] as ***a corporation***[~~corporations~~] formed under KRS Chapter 271B.

Section 88. KRS 274.017 is amended to read as follows:

(1) A professional service corporation may issue and a shareholder thereof may transfer or pledge shares, fractional shares, and rights or options to purchase shares only to:

  (a) Natural persons who are authorized by law in this state or in any other state or territory of the United States or the District of Columbia to render a professional service permitted by the articles of incorporation of the corporation;

  (b) Partnerships***, domestic or foreign,*** in which all the partners are qualified persons with respect to such professional corporation and in which at least one (1) partner is authorized by ***the laws of***[~~law in~~] this state to render a professional service permitted by the articles of incorporation of the corporation;

  (c) A professional limited liability company, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of organization of the limited liability company ***and the articles of incorporation of the corporation***; and

  (d) Professional service corporations, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation.

(2) Any issuance or transfer of shares in violation of this section shall be void; however, nothing herein contained shall prohibit the transfer of shares of a professional corporation by operation of law or court decree.

Section 89. KRS 274.019 is amended to read as follows:

No proxy for shares of a professional service corporation shall be valid unless it shall be given to a qualified person. A voting trust with respect to shares of a professional ***service*** corporation shall not be valid unless all the trustees and beneficiaries thereof are qualified persons, except that a voting trust may be validly continued for a period of ten (10) months after the death of a deceased beneficiary or for a period of five (5) months after a beneficiary has become a disqualified person.

Section 90. KRS 274.065 is amended to read as follows:

Nothing in this chapter shall restrict or limit in any manner the authority and duty of any ***regulating*** board of competent jurisdiction (a) to license individual persons rendering professional services, or (b) to regulate the practice of the profession which is within the jurisdiction of such regulating board, even though such person is an officer, director, shareholder or employee of a professional service corporation or engages in the practice of such profession through a professional service corporation.

Section 91. KRS 274.077 is amended to read as follows:

The name of a domestic professional service corporation or of a foreign professional service corporation authorized to transact business in this state:

(1) Shall contain the words "professional service corporation" or the abbreviation "P.S.C.";

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;

(3) Shall ***satisfy the requirements of subsection (2) of Section 57 of this Act***[~~be distinguishable upon the records of the Secretary of State from the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in KRS Chapter 271B, or the name of a corporation which has in effect a registration of its corporate name as provided in KRS Chapter 271B, or the fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable, or a name filed with the Secretary of State under KRS 362.095, 362.420, or 365.015, except that this provision shall not apply if:~~

  ~~(a) Such similarity results from the use in the corporate name of personal names of its shareholders or former shareholders or of natural persons who were associated with a predecessor entity;~~

  ~~(b) The other corporation or partnership consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or~~

  ~~(c) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state~~]; and

(4) Shall otherwise conform to any rule promulgated by a ***regulating board***[~~licensing authority~~] having jurisdiction of a professional service described in the articles of incorporation of such corporation.

Section 92. KRS 275.010 is amended to read as follows:

(1) Except as otherwise set forth in this chapter or unless the articles of organization or operating agreement provide otherwise, every limited liability company shall have the powers to do all things necessary or convenient to carry out its business and affairs.

(2) A limited liability company is a legal entity distinct from its members.

(3) Professional limited liability companies shall be governed by the laws, whether statutory or common law, applicable to other limited liability companies. Except for those provisions concerning the personal liability of members, managers, employees, and agents of a limited liability company, nothing in this chapter shall restrict, limit, or expand in any manner the authority and duty of any regulating board to:

(a)[~~(1)~~] License individual persons providing professional services; and

(b)[~~(2)~~] Regulate the practice of persons providing professional services which are within the jurisdiction of the regulating board, even though the persons are members, managers, employees, or agents of a professional limited liability company, or provide professional services through a professional limited liability company, including the establishment of regulations concerning:

1.[~~(a)~~] The qualifications of members or managers of a professional limited liability company;

2.[~~(b)~~] The transfer of limited liability company interests in a professional limited liability company; or

3.[~~(c)~~] The provision of one (1) or more professional services through a professional limited liability company.

Section 93. KRS 275.015 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Articles of organization" means the articles filed in conformity with the provisions of KRS 275.020 and 275.025, and those articles as amended or restated;

(2) "Business entity" means ***a*** domestic ***or***[~~and~~] foreign limited liability ***company, corporation, partnership, limited partnership***[~~companies, general and limited partnerships, corporations~~], business ***or statutory trust***[~~trusts~~], and ***not-for-profit unincorporated association;***[~~sole proprietorships;~~]

(3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country;

(4) "Court" means every court having jurisdiction in the case;

(5) ***"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;***

(6) "Dissent" means a right to object to a proposed action or transaction and, in connection therewith, to demand a redemption of a limited liability company interest;

(7) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;

(8) "Event of disassociation" means an event that causes a person to cease to be a member as provided in KRS 275.280;

(9)[~~(6)~~] "Foreign limited liability company" means an organization that is:

- (a) An unincorporated association;
- (b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and
- (c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity;

(10)[~~(7)~~] "Knowledge" means actual knowledge of a fact;

(11)[~~(8)~~] "Limited liability company" or "domestic limited liability company" means a limited liability company formed under this chapter having one (1) or more members;

(12)[~~(9)~~] "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with KRS 275.195;

(13)[~~(10)~~] "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country;

(14)[~~(11)~~] "Majority-in-interest of the members" means those members entitled to cast a majority of the votes to be cast by the members on any matter under the terms of the operating agreement described in KRS 275.175(3);

(15)[~~(12)~~] "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with KRS 275.165;

(16)[~~(13)~~] "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in KRS 275.275 and who have not ceased to be members as provided in KRS 275.280;

(17) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity;

(18) "Nonprofit limited liability company" means a limited liability company formed for a nonprofit purpose;

(19) "Nonprofit purpose" includes any purpose authorized under KRS 273.167;

(20)[~~(14)~~] "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company.[~~ If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement and~~

~~shall be void and unenforceable.~~] If a limited liability company has only one (1) member, an operating agreement shall be deemed to include:

(a) A writing executed by the member that relates to the affairs of the limited liability company and the conduct of its business regardless of whether the writing constitutes an agreement; or

(b) If the limited liability company is managed by a manager, any other agreement between the member and the limited liability company as it relates to the limited liability company and the conduct of its business, regardless of whether the agreement is in writing;

(21)[~~(15)~~] "Person" means an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity;

(22)[~~(16)~~] "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located;

(23)[~~(17)~~] "Proceeding" means civil suit and criminal, administrative, and investigative action;

(24)[~~(18)~~] "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability companies;

(25)[~~(19)~~] "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;

(26) "Real name" shall have the meaning set forth in Section 164 of this Act;

(27)[~~(20)~~] "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide; and

(28)[~~(21)~~] "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Section 94. KRS 275.020 is amended to read as follows:

(1) One (1) or more persons may serve as the organizer and form a limited liability company by delivering articles of organization to the Secretary of State for filing. It shall not be necessary that the person or persons be members of the limited liability company.

(2) Unless a delayed effective date is specified, the existence of the limited liability company shall begin when the articles of organization are filed by the Secretary of State. If a delayed effective date is specified, the existence of the limited liability company shall begin when the articles of organization are effective as specified in Section 100 of this Act.

(3) The Secretary of State's filing of the articles of organization shall be conclusive proof that the organizer or organizers satisfied all conditions precedent to organization, except in a proceeding by the state to cancel or revoke the organization or involuntarily dissolve the limited liability company.

Section 95. KRS 275.025 is amended to read as follows:

(1) The articles of organization shall set forth:

(a) A name for the limited liability company that satisfies the requirements of KRS 275.100;

(b) The street address of the limited liability company's initial registered office, and the name of its initial registered agent at that office;

(c) The mailing address of the initial principal office of the limited liability company; and

(d) A statement that the limited liability company is to be managed by a manager or managers or that the limited liability company is to be managed by its members.

(2) The term of a limited liability company shall be perpetual unless a period of duration other than perpetual is set forth in the articles of organization.

(3) The articles of organization of a professional limited liability company shall designate the professional services to be practiced through the professional limited liability company.

(4) The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement not inconsistent with law.

(5) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the articles of organization.

(6) A member of a limited liability company shall not have a vested property right resulting from any provision of the articles of organization.

(7) If the limited liability company is a nonprofit limited liability company, then the articles of organization shall state that fact and its nonprofit purpose. This provision of the articles of organization shall not be removed from the articles of organization without written notice to the Attorney General of Kentucky given not less than ten (10) business days prior

to the filing of the amendment.

(8) The fact that the articles of organization are on file with the Secretary of State is notice:

(a) That the limited liability company formed by the filing of the articles of organization is a limited liability company formed under the laws of the Commonwealth of Kentucky; and

(b) Of all other facts set forth in the articles of organization which are required to be set forth by subsections (1), (3), and (7) of this section.

Section 96. KRS 275.030 is amended to read as follows:

(1) A limited liability company ***shall***[~~may~~] amend its articles of organization to add ***or change a provision that is required by this chapter to be included in the articles of organization. A limited liability company may amend its articles of organization to add***, change, or delete a provision that is[~~ required or~~] permitted ***to be or that is not required to be*** in the articles of organization[~~ or to delete a provision not required in the articles~~]. The articles of organization shall be amended if:

(a) There is a change in the name of the limited liability company;

(b) There is a change in the latest date upon which the limited liability company is to dissolve;

(c) There is a change in whether the management of the limited liability company is vested in managers or members; or

(d) There is a change in any other matter ***required to be*** set forth in the articles of organization under KRS 275.025.

(2) Except as provided in subsection (3) of this section, or unless the articles of organization or the operating agreement provide otherwise, an amendment to the articles of organization of a limited liability company shall be approved by the members in accordance with KRS 275.175.

(3) Unless the articles of organization or the ***written*** operating agreement provide otherwise, a manager or, if there is no manager, any member may amend the articles of organization of the limited liability company without action by the members to delete:

(a) The name and address of the initial registered agent or initial registered office if a statement of change pursuant to KRS 275.120 is on file with the Secretary of State; or

(b) The mailing address of the initial principal office, if a statement of change pursuant to KRS 275.040 is on file with the Secretary of State.

(4) To amend its articles of organization, a limited liability company shall file with the Secretary of State articles of amendment setting forth:

(a) The name of the limited liability company;

(b) The text of each amendment adopted;

(c) The date of each amendment's adoption; and

(d) A statement that the amendment was duly adopted by the managers or the members in accordance with the articles of organization, the operating agreement of the limited liability company, or this chapter.

(5) The articles of organization may be amended in any respect as may be desired, if the articles of organization as amended contain only provisions that may be lawfully contained in articles of organization at the time of making the amendment.

(6) Unless the articles of organization provide otherwise, no member of a limited liability company shall have the right to dissent from an amendment to the articles of organization.

Section 97. KRS 275.045 is amended to read as follows:

(1) A document shall satisfy the requirements of this section, and of any other section of this chapter that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(2) This chapter shall require or permit filing the document in the Office of the Secretary of State.

(3) The document shall contain the information required by this chapter. It may also contain other information.

(4) The document shall be typewritten or printed ***or, if electronically transmitted, it shall be in a format that can be retrieved or reproduced in typewritten or printed form***. The typewritten or printed portion shall be in black. Manually-signed photocopies, or other reproduced copies, of typewritten or printed documents may be filed.

(5) The document shall be in the English language. A limited liability company name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any document that may be filed by a foreign limited liability company which is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the limited liability company is formed may be in a language other than English if accompanied by a reasonably-authenticated English translation.

(6) Unless otherwise provided in any other section of this chapter, any document required by this chapter to be filed with the Secretary of State shall be executed:

(a) If management of the limited liability company is vested in one (1) or more managers, by any one (1) of the managers;

(b) If management of the limited liability company is reserved to the members, by any one (1) of the members;

(c) If the limited liability company has not been formed, by the persons forming a limited liability company; or

(d) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The persons executing the document shall sign it and state beneath or opposite their signatures the names of the persons and the capacity in which each signs.

(8) The person executing the document may do so as an attorney-in-fact. Powers of attorney relating to the execution of the document shall not be required to be provided to or filed with the Secretary of State.

(9) If the Secretary of State has prescribed a mandatory form for a document, ***then*** the document shall be in or on the prescribed form.

(10) The document shall be delivered to the Secretary of State for filing~~[and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, and any other fee or penalty required by this chapter or other law to be collected by the Office of Secretary of State]~~. ***Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, then the Secretary of State may require that it be accompanied by two (2) exact or conformed copies.***

(11) One (1) of the exact or conformed copies ***or, if transmitted electronically, a reproduction in paper form,*** shall be filed with and recorded by the county clerk of the county in which the registered office of the limited liability company is situated.

(12) When the document is delivered to the office of the Secretary of State for filing, the correct filing fee and any penalty required by this chapter or other law to be collected by the office of the Secretary of State shall be paid or provision for payment made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, debit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, then the liability is not finally discharged until the Secretary of State receives final payment or credit of collectible funds.

Section 98. KRS 275.050 is amended to read as follows:

(1) The Secretary of State shall prescribe and furnish on request forms for:

(a) A certificate of existence or authorization;

(b) An application for a certificate of authority;

(c) An application for a certificate of withdrawal;

(d) A statement of change of registered office or registered agent;

(e) A statement of change of principal office address;

(f) The annual report;~~[and]~~

(g) An amendment of the annual report;

(h) An application for a reservation of name;

(i) An application to renew a reservation of name; and

(j) An amended application for certificate of authority.

(2) The Secretary of State shall have the discretion to make mandatory the use of the forms referred to in subsection (1) of this section.

(3) The Secretary of State may prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter, but their use shall not be mandatory.

Section 99. KRS 275.055 is amended to read as follows:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a)	Articles of organization	$ 40.00
(b)	Application for certificate of authority as a foreign limited liability company	$ 90.00
(c)	Amendment of article of organization	$ 40.00
(d)	Restatement of articles of organization	$ 40.00
(e)	Amendment and restatement of articles of organization	$ 80.00
(f)	Articles of dissolution with respect to a domestic limited liability company	$ 40.00
(g)	Limited liability company's statement of change of registered agent or change of the address of the registered	

	office, or both $ 10.00	
(h)	Registered agent's statement of change of registered office for each affected limited liability company	$ 10.00
	not to exceed a total of	$ 1,000.00
(i)	Limited liability company's statement of change of the mailing address of the principal office	$ 10.00
(j)	Application to reserve a name for use by a domestic or foreign limited liability company	$ 15.00
(k)	***Renewal of application to reserve a name for use by a domestic or foreign limited liability company***	***$ 15.00***
(l)	Notice of the transfer of a name reserved for use by a domestic or a foreign limited liability company	$ 15.00
(m)[~~(l)~~]	Application for use of indistinguishable name	$ 20.00
(n)[~~(m)~~]	Application for registered name	$ 36.00
(o)[~~(n)~~]	Application for renewal of registered name	$ 36.00
(p)[~~(o)~~]	Articles of merger	$ 50.00
(q)[~~(p)~~]	Application for amended certificate of authority	$ 40.00
(r)[~~(q)~~]	Application for certificate of withdrawal	$ 40.00
(s)[~~(r)~~]	Articles of correction	$ 20.00
(t)[~~(s)~~]	Certificate of existence or authorization	$ 10.00
(u)[~~(t)~~]	Reinstatement penalty following administrative dissolution	$ 100.00
(v)[~~(u)~~]	Annual report $ 15.00	
(w)	***Amendment to annual report***	***$ 10.00***
(x)	***Articles of share exchange***	***$ 50.00***
(y)[~~(v)~~]	Any other document required or permitted to be filed by this chapter	$ 15.00

(2) The Secretary of State shall collect a fee of ten dollars ($10) each time process is served on the Secretary of State under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if the party prevails in the proceeding.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(a) ***Five dollars ($5) per request for the first five (5) pages and*** fifty cents ($0.50) a page for ***each page thereafter***[~~copying~~]; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to limited liability companies.

Section 100. KRS 275.060 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and KRS 275.065(3), a document shall be effective at the time of filing on the date it is filed, as evidenced by ***any means the Secretary of State may allow for the purpose of recording the date and time of filing***[~~the Secretary of State's date and time endorsement on the original document~~], or at the time specified in the document as its effective time on the date it is filed.

(2) A document may specify a delayed effective time and date***.***[~~; and~~] If ***the document***[~~it~~] does so ***specify*** and is filed pursuant to subsection (1) of this section, ***then*** the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, ***then*** the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

(3) A document filed in accordance with this section shall be effective regardless of a failure to file the document with the county clerk pursuant to KRS 275.045(11).

Section 101. KRS 275.065 is amended to read as follows:

(1) A domestic or foreign limited liability company may correct a document filed by the Secretary of State in accordance with subsection (2) of this section if[~~ the document~~]:

(a) ***The document contains an inaccuracy***[~~Contains an incorrect statement~~];[~~ or~~]

(b) ***The document*** was defectively executed, attested, sealed, verified, or acknowledged***; or***

(c) The electronic transmission of the document was defective.

(2) A document shall be corrected:

(a) By preparing articles of correction that:

1. Describe the document, including its filing date, or have attached a copy of the document to the articles of correction;

2. Specify the ***inaccuracy or defect to be corrected***[~~incorrect statement and the reason it is incorrect or the manner in which the execution was defective~~]; and

3. Correct the ***inaccuracy or defect***[~~incorrect statement or defective execution~~]; and

(b) By delivering the articles of correction to the Secretary of State for filing.

(3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

Section 102. KRS 275.070 is amended to read as follows:

(1) If a document delivered to the Secretary of State for filing satisfies the requirements of KRS 275.045, ***then*** the Secretary of State shall file it.

(2) The Secretary of State shall file a document by ***recording it as filed on the date and time of receipt***[~~stamping or otherwise endorsing "Filed," together with the Secretary of State's name and official title and the date and time of receipt, on both the original and the document copies and on the receipt for the filing fee~~]. After filing a document, except as provided in KRS 275.125 and 275.420, the Secretary of State shall deliver[~~, the document copies, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached,~~] to the domestic or foreign limited liability company or its representative ***a copy of the document with an acknowledgment of the date and time of filing***.

(3) If the Secretary of State refuses to file a document, ***then*** the Secretary of State shall return it to the domestic or foreign limited liability company or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(4) The Secretary of State's duty to file documents under this section shall be ministerial. The filing or refusal to file a document by the Secretary of State shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Section 103. KRS 275.080 is amended to read as follows:

A certificate ***from the Secretary of State delivered with***[~~attached to~~] a copy of the document filed by the Secretary of State[~~, bearing his signature, which may be in facsimile, and the seal of this Commonwealth,~~] shall be conclusive evidence that the original document is on file with the Secretary of State.

Section 104. KRS 275.095 is amended to read as follows:

All persons purporting to act as or on behalf of a limited liability company, knowing there has been no organization under this chapter, ***or who assume to act for a limited liability company without authority to do so,*** shall be jointly and severally liable for all liabilities created while so acting.

Section 105. KRS 275.100 is amended to read as follows:

(1) The name of each limited liability company as set forth in its articles of organization shall contain the words "limited liability company" or "limited company" or the abbreviations "LLC" or "LC." The name of each limited liability company which is a professional limited liability company shall contain the words "professional limited liability company" or "professional limited company" or the abbreviations "PLLC" or "PLC." The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."

(2) Except as authorized by subsections (3) and (4) of this section, the name of a limited liability company shall be distinguishable from any name on record with the Secretary of State.

(3) A limited liability company may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:

(a) The other business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.

(4) A limited liability company may use the name, including the fictitious name, with any modification required by this section or KRS 275.410 of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the limited liability company:

(a) Has merged with the other business entity;

(b) Has been formed by reorganization of the other business entity; or

(c) Has acquired all or substantially all of the assets, including the business name, of the other business entity.

(5) This chapter shall not control the use of ***assumed***[~~fictitious~~] names.

(6) The filing of articles of organization under the particular name of the limited liability company shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 106. KRS 275.105 is amended to read as follows:

(1) A person may apply to the Secretary of State to reserve the exclusive use of a limited liability company name, including the fictitious name, for a foreign limited liability company whose limited liability company name is not available for use in this Commonwealth. If the Secretary of State finds that the limited liability company name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for one (1) nonrenewable period of one hundred twenty (120) days. ***During the thirty (30) days prior to the expiration of a reservation, the holder of the registration may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.***

(2) The holder of a reserved limited liability company name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

(3) The holder of a reserved limited liability company name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 107. KRS 275.135 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every member shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is a member, shall bind the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge or has received notification of the fact that the member has no such authority.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) No member, solely by reason of being a member, shall be an agent of the limited liability company; and

(b) Every manager shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is the manager shall bind the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge or has received notification of the fact that the manager has no such authority.

(3) An act of a manager or a member which is apparently not for the carrying on in the usual way of the business or affairs of the limited liability company shall not bind the limited liability company unless, at the time of the transaction or at any other time, the act is authorized in accordance with the operating agreement.

(4) An act of a manager or member in contravention of a restriction on authority shall not bind the limited liability company to persons having knowledge of the restriction.

[~~(5) Unless otherwise set forth in a written operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one (1) or more other persons the member's or manager's powers to manage or control the business and affairs of the limited liability company, including without limitation the power to delegate to agents and employees of a member, manager, or limited liability company or to delegate by an agreement to other persons. This delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.~~]

Section 108. KRS 275.165 is amended to read as follows:

(1) Unless the articles of organization vest management of the limited liability company in a manager or managers, management of the business and affairs of the limited liability company shall vest in the members. Subject to any provisions in the articles of organization, the operating agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the articles of organization vest management of the limited liability company in one (1) or more managers, except to the extent otherwise provided in the articles of organization, the operating agreement, or this chapter, the manager or managers shall have exclusive power to manage the business and affairs of the limited liability company. Unless otherwise provided in the articles of organization or the operating agreement, managers:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of the majority-in-interest of the members;

(b) Shall not be required to be members of the limited liability company or natural persons; and

(c) Unless they are sooner removed or sooner resign, shall hold office until their successors shall have been elected and qualified.

(3) Unless otherwise set forth in a written operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one (1) or more other persons the member's or manager's powers to manage or control the business and affairs of the limited liability company, including without limitation the power to delegate to agents and employees of a member, manager, or limited liability company or to delegate by an agreement to other persons. This delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.

Section 109. KRS 275.170 is amended to read as follows:

Unless otherwise provided in ***a written***~~[an]~~ operating agreement:

(1) A member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability company or the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless the act or omission constitutes wanton or reckless misconduct.

(2) Each member and manager shall account to the limited liability company and hold as trustee for it any profit or benefit derived by that person without the consent of more than one-half (1/2) by number of the disinterested managers,~~[one-half (1/2) by number of other persons participating in the management of the business or affairs of the limited liability company,]~~ or ***a***~~[the]~~ majority-in-interest of the members ***from***:

(a) Any transaction connected with the conduct or winding up of the limited liability company; or

(b) Any use by the member or manager of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to the person as a result of his status as manager or member.

(3) ***In determining whether a transaction has received the approval of a majority-in-interest of the members, membership interests owned by or voted under the control of the member or manager whose actions are under review in accordance with subsection (2) of this section, and membership interests owned by an entity owned by or voted under the control of that member or manager, shall not be counted in a vote of the members to determine whether to consent, and the membership interests shall not be counted in determining whether a quorum, if required by a written operating agreement, exists to consider whether to consent.***

(4) A member of a~~[One who is a member of the]~~ limited liability company in which management is vested in managers under KRS 275.165(2) and who is not a manager shall have no duties to the limited liability company or the other members solely by reason of acting in his ***or her*** capacity as a member.

Section 110. KRS 275.175 is amended to read as follows:

(1) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, the affirmative vote, approval, or consent of a majority-in-interest of the members, if management of the limited liability company is vested in the members, or ***a simple majority*** of the managers, ***each having a single vote,*** if the management of the limited liability company is vested in managers, shall be required to decide any matter connected with the business affairs of the limited liability company.

(2) Unless otherwise provided in ***a written***~~[writing in the]~~ operating agreement, the affirmative vote, approval, or consent of the majority-in-interest of the members shall be required to:

(a) Amend a written operating agreement;

(b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a written operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof; or

(c) Amend the articles of organization to change the management of the limited liability company from members to managers or from managers to members.

(3) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, for all purposes of this chapter, the members of a limited liability company shall vote, approve, or consent in proportion to their contributions, based upon the agreed value as stated in the records of the limited liability company as required by KRS 275.185, made by each member to the extent they have been received by the limited liability company and have not been returned.

(4) Unless otherwise provided in the articles of organization or the written operating agreement, no member of a limited liability company shall have the right to dissent from an amendment to the operating agreement.

Section 111. KRS 275.185 is amended to read as follows:

(1) A limited liability company shall keep at its principal office or other location as set forth in a written operating agreement, the following:

(a) A current list, and all past lists, setting forth the full name and last known mailing address of each member and***, if any, each*** manager[~~, if any~~];

(b) A copy of the articles of organization and all amendments thereto, together with executed copies of any power of attorney pursuant to which any articles of amendment have been executed;

(c) Copies of the limited liability company's federal, state, and local income tax returns and financial statements, if any, for the three (3) most recent years or, if those returns and statements were not prepared, copies of the information and statements provided to, or which should have been provided to, the members to enable them to prepare their federal, state, and local tax returns for those years;

(d) Copies of any effective written operating agreements and all amendments thereto, and copies of any written operating agreements no longer in effect; and

(e) Unless contained in writing in an operating agreement:

1. A writing setting forth the amount of cash, if any, and a statement of the agreed value of other property or services, if any, contributed by each member and the times at which or events upon the happening of which any additional contributions are to be made;

2. A writing stating events, if any, upon the happening of which the limited liability company is to be dissolved and its affairs wound up; and

3. Other writings, if any, prepared pursuant to a requirement, if any, in an operating agreement.

(2) Upon reasonable written request, a member may, at the member's own expense, inspect and copy during ordinary business hours any limited liability company record, where the record is located or at a reasonable location.

(3) Members, if the management of the limited liability company is vested in the members, or managers, if management of the limited liability company is vested in managers, shall render, to the extent the circumstances render it just and reasonable, true and full information of all matters affecting the members to any member, and the member's agent, and to the legal representative of any deceased member or of any member under legal disability.

(4) Failure of the limited liability company to keep or maintain any of the records or information required pursuant to this section shall not be grounds for imposing liability on any member or manager for the debts and obligations of the limited liability company.

(5) A written operating agreement may impose reasonable limitations upon the use of any record of or information with respect to a limited liability company. Except as to limitations set forth in a written operating agreement to which a member requesting information has assented, the limited liability company bears the burden of proof in demonstrating the reasonableness of any restrictions imposed.

Section 112. KRS 275.190 is amended to read as follows:

(1) Each domestic limited liability company, and each foreign limited liability company authorized to transact business in this Commonwealth, shall deliver to the Secretary of State for filing an annual report that sets forth:

(a) The name of the limited liability company and the state or country under whose law it is organized;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its managers, if management is vested in managers, or one (1) or more designated members, if management is vested in members.

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the limited liability company.

(3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic limited liability company was organized or a foreign limited liability company was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for ***completion. For purposes of KRS 275.085(2)(e), an annual report returned for completion pursuant to this subsection shall not be deemed to have been delivered.***

(5) A domestic or foreign limited liability company may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State[~~correction~~].

Section 113. KRS 275.195 is amended to read as follows:

(1) A limited liability company interest may be issued in exchange for consideration consisting of cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

(2) A person may be admitted to a limited liability company as a member of the limited liability company and may receive a limited liability company interest without making a contribution or being obligated to make a contribution to the limited liability company.

(3) Unless otherwise provided in the operating agreement, a person may be admitted to a limited liability company as a member without acquiring a limited liability company interest.

Section 114. KRS 275.200 is amended to read as follows:

(1) ***An obligation of***[~~A promise by~~] a member to ***make a contribution***[~~contribute~~] to the limited liability company shall not be enforceable unless set forth in a writing signed by the member.

(2) Unless otherwise provided in an operating agreement, a member shall be obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or other reason.

(3) If a member does not make ***a***[~~the~~] required contribution of property or services, ***then*** the member shall be obligated, at the option of the limited liability company, to contribute cash equal to that portion of value of the stated contribution that has not been made.

(4) Unless otherwise provided in an operating agreement, ***an***[~~the~~] obligation of a member to make a contribution may be compromised only with the unanimous consent of the members.

(5) Notwithstanding any compromise approved pursuant to subsection (4) of this section, a creditor of a limited liability company who extends credit or otherwise acts in reliance on ***an***[~~the~~] obligation after the member executes a writing which reflects ***that***[~~the~~] obligation and before ***any such***[~~the~~] compromise ***is reached,*** may enforce the original obligation.

Section 115. KRS 275.225 is amended to read as follows:

(1) No distribution shall be made if, after giving effect to the distribution:

(a) The limited liability company would not be able to pay its debts as they become due in the usual course of business; or

(b) The limited liability company's assets would be less than the sum of its liabilities plus, unless otherwise provided in an operating agreement, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other members upon dissolution which are superior to the rights of the member receiving the distribution.

(2) The limited liability company may base a determination that a distribution is not prohibited under subsection (1) of this section either on:

(a) Financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances; or

(b) A fair valuation or other method that is reasonable under the circumstances.

(3) Except as provided in subsection (5) of this section, the effect of a distribution under subsection (1) of this section shall be measured as of:

(a) The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or

(b) The date payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

(4) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section shall be at parity with the limited liability company's indebtedness to its general unsecured creditors, except to the extent subordinated by agreement.

(5) If terms of the indebtedness provide that payment of principal and interest is to be made only if, and to the extent that, payment of a distribution to members could then be made under this section, ***then*** indebtedness of a limited liability company, including indebtedness issued as a distribution, shall not be a liability for purposes of determinations made under subsection (1) of this section.

(6) If the indebtedness is issued as a distribution, ***then*** each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which shall be measured on the date the payment is actually made.

(7) For purposes of this section, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefit program.

Section 116. KRS 275.255 is amended to read as follows:

(1) Unless otherwise provided in ***a written***[~~writing in an~~] operating agreement:

(a) A limited liability company interest shall be assignable in whole or in part;

(b) An assignment shall entitle the assignee to receive, to the extent assigned, only the distributions to which the assignor would be entitled;

(c) An assignment of a limited liability company interest shall not dissolve the limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or exercise any rights of a member other than the right to receive distributions pursuant to subsection (1)(b) of this section;

(d) Until the assignee of a limited liability company interest becomes a member pursuant to KRS 275.265(1), the assignor shall continue to be a member and to have the power to exercise any rights of a member, subject to the members' right to remove the assignor pursuant to KRS 275.280(1)(c)2.;

(e) Until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment; and

(f) The assignor of a limited liability company interest shall not be released from liability as a member solely as result of the assignment.

(2) ***A written***[~~An~~] operating agreement may provide that a member's limited liability company interest may be evidenced by a certificate of limited liability company interest issued by the limited liability company and may also provide for the assignment or transfer of any interest represented by the certificate.

(3) Unless otherwise provided in ***a written***[~~an~~] operating agreement, the pledge of or granting of a security interest, lien, or other encumbrance in or against any or all of the limited liability company interest of a member shall not constitute an assignment and shall not cause the member to cease to be a member or cease to have the power to exercise any rights or powers of a member.

(4) Limitations upon the assignment or pledge of a membership interest set forth or adopted in accordance with this section shall be enforced notwithstanding KRS 355.9-406 and 355.9-408.

Section 117. KRS 275.260 is amended to read as follows:

(1) This section provides the exclusive remedy by which the judgment creditor of a member or the assignee of a member may satisfy a judgment out of the judgment debtor's limited liability company interest.

(2) On application to a court of competent jurisdiction by a judgment creditor of a member or a member's assignee, a court may charge the judgment debtor's interest in the limited liability company with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of a assignee, and shall have no right to participate in the management or to cause the dissolution of the limited liability company. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the limited liability company interest and make all other orders, directions, accounts, and inquiries the judgment creditor might have made or which the circumstances of the case may require to give effect to the charging order.

(3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's limited liability company interest. A charging order does not of itself constitute an assignment of the limited liability company interest.

(4) The court may order a foreclosure upon the limited liability company interest subject to the charging order at any time. The purchaser of the liability company interest at the foreclosure sale has the rights of a assignee. At any time before foreclosure, the charged limited liability company interest may be redeemed:

(a) By the judgment debtor;

(b) With property other than limited liability company property, by one (1) or more of the other members; and

(c) With limited liability company property, by the limited liability company with the consent of all members whose interest are not so charged.

(5) This section does not deprive a member or a member's transferee of the benefit of any exemption laws applicable to the member's or transferee's limited liability company interest[~~On application to a court of competent jurisdiction by any judgment creditor of a member, the court shall charge the member's limited liability company interest with payment of the unsatisfied amount of judgment with interest thereon. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the member's limited liability company interest. This chapter shall not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest~~].

Section 118. KRS 275.285 is amended to read as follows:

A limited liability company shall be dissolved and ***it shall commence to wind up its affairs***[~~its affairs wound up~~] upon the happening of the first to occur of the following:

(1) The expiration of the term of the limited liability company set forth in the articles of organization, if any***;***[~~, or~~]

(2) Upon the occurrence of events specified in the articles of organization or a written operating agreement;

(3)[~~(2)~~] Unless otherwise set forth in the operating agreement, the written consent of ***all***[~~a majority in interest~~] of the members of a limited liability company;

(4)[~~(3)~~] ***There are no remaining members, except that the limited liability company shall not be dissolved and its affairs shall not be wound up when:***

(a) A member is admitted to the limited liability company in the manner provided for in a written operating

agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

(b) Unless otherwise provided in a written operating agreement, within ninety (90) days after the occurrence of the event that terminated the continued membership of the last remaining member, the successor-in-interest of the last remaining member agrees in writing to continue the limited liability company and to the admission of the successor-in-interest of that member or its designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

(5) Entry of a decree of judicial dissolution under KRS 275.290; or

(6)[~~(4)~~] Filing of a certificate of dissolution by the Secretary of State under KRS 275.295.

Section 119. KRS 275.295 is amended to read as follows:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days;[~~ or~~]

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued***; or***

(d) The limited liability company's term as set forth in its articles of organization expires.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination ***by first class mail at its principal place of business address***.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company by mailing the notice by first class mail to the limited liability company at its ***principal place of business address. If a limited liability company is dissolved for having reached the end of its period of duration, and it does not within sixty (60) days of the end of its duration amend the articles of organization to extend its duration, the certificate of dissolution shall be effective as of the end of the period of duration as set forth in the articles of organization***[~~registered office~~].

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section***, other than for failure to amend the articles of organization to extend the duration of the limited liability company within sixty (60) days of the expiration of its term,*** may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;
2. State that the ground or grounds for dissolution either did not exist or have been eliminated;
3. State that the limited liability company's name satisfies the requirements under KRS 275.100;
4. Contain a certificate from the Kentucky Department of Revenue stating that all taxes owed by the limited liability company have been paid; and
5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and
2. Serve a copy on the limited liability company ***in the manner provided in subsection (2)(a) of this section***.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report***, or, if none, the articles of organization***.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and

2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

Section 120. KRS 275.300 is amended to read as follows:

Unless otherwise provided in a written operating agreement:

(1) The business or affairs of the limited liability company may be wound up:

(a) By the members or managers who have authority pursuant to KRS 275.165 to manage the limited liability company prior to dissolution; or

(b) If one (1) or more of the members or managers have engaged in wrongful conduct, or upon other cause shown, by the Circuit Court for the county in which the principal office of the limited liability company is located or in which the registered office of the limited liability company is located, on application of any member, any member's legal representative, or assignee.

(2) A dissolved limited liability company shall continue its existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind to its members;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property among its members according to their interests; and

(e) Doing every other act necessary to wind up and liquidate its business and affairs.

(3) Dissolution of a limited liability company shall not:

(a) Transfer title to the limited liability company's property;

(b) Prevent transfer of a limited liability company interest, although the authorization to dissolve may provide for the limited liability company restricting the transfer of the limited liability company's interest;

(c) Subject its members or managers to standards of conduct different from those prescribed herein;

(d) Change quorum or voting requirements for its members or managers; change provisions for selection, resignation, or removal of its members or managers; or change provisions for amending its operating agreement;

(e) Prevent commencement of a proceeding by or against the limited liability company in its name;

(f) Abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution;

(g) Terminate the authority of the registered agent of the limited liability company;[~~ or~~]

(h) Alter the obligations and responsibilities of the limited liability company as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns***; or***

(i) Abate or suspend KRS 275.150(1).

Section 121. KRS 275.315 is amended to read as follows:

After the dissolution of the limited liability company pursuant to ***Section 118 of this Act***[~~KRS 275.285(1), (2), or (3)~~], the limited liability company shall file articles of dissolution with the Secretary of State which set forth:

(1) The name of the limited liability company;

(2) A statement of the subsection of KRS 275.285 pursuant to which the limited liability company has dissolved;

(3) The effective date, which shall be a date certain, of the dissolution; and

(4) Any other information the members or managers filing the articles of dissolution shall deem proper.

Section 122. KRS 275.345 is amended to read as follows:

(1) Unless otherwise provided in writing in a written operating agreement, and subject to any law applicable to business entities other than limited liability companies, one (1) or more limited liability companies may merge with or into one (1) or more other business entities with the limited liability company or other business entity being the surviving or resulting limited liability company or other business entity.

(2) Rights or securities of or interests in a business entity that is a party to the merger may be exchanged for or converted into cash, property, obligations, rights, or securities of or interests in the surviving or resulting business entity or of any other business entity.

(3) Unless otherwise provided in the articles of organization, a written operating agreement, or a written agreement and plan of merger, no member of a limited liability company shall have the right to dissent from a merger.

(4) A nonprofit limited liability company shall not merge with or into any business entity which is not a domestic nonprofit limited liability company.

Section 123. KRS 275.350 is amended to read as follows:

(1) Unless otherwise provided in a written operating agreement, a limited liability company that is a party to a proposed merger shall approve the plan of merger in KRS 275.355 by a majority-in-interest of the members.

(2) Each business entity that is a party to a proposed merger shall approve the plan of merger in the manner and by the vote required by the laws applicable to the business entity.

(3) Each business entity that is a party to the merger shall have the rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the business entity.

(4) Unless otherwise provided in the articles of organization, a written operating agreement, or a written agreement and plan of merger, no member of a limited liability company shall have the right to dissent from a merger.

Section 124. KRS 275.370 is amended to read as follows:

(1) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.

(2) The terms and conditions of a conversion of a partnership or limited partnership to a limited liability company shall, in the case of a partnership, be approved by all the partners or by a number or percentage specified for conversion in the partnership agreement or, in the case of a limited partnership, by all the partners, notwithstanding any provision to the contrary in the limited partnership agreement.

(3) After the conversion is approved under subsection (2) of this section, the partnership or limited partnership shall file articles of organization with the office of the Secretary of State which satisfy the requirements of KRS 275.025 and include:

   (a) A statement that the partnership or limited partnership was converted to a limited liability company from a partnership or limited partnership, as the case may be;

   (b) Its former name;

   (c) In the case of a partnership, a statement of the number of votes cast by the partners entitled to vote for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement***;*** and

   (d) If the partnership has filed a statement of registration as a limited liability partnership in accordance with Section 146 of this Act or a statement of qualification in accordance with KRS 362.1-1001, each shall be deemed canceled as of the effective date and time of the articles of organization as determined in accordance with Section 94 of this Act; and

   (e) In the case of a limited partnership, the limited partnership's certificate of limited partnership shall be deemed canceled as of the effective date and time of the articles of organization as determined in accordance with Section 94 of this Act[~~a statement that any assumed name has been canceled; and~~

   ~~(d) In the case of a limited partnership, the limited partnership shall cancel its certificate of limited partnership and any assumed name pursuant to this Commonwealth's limited partnership law~~].

(4) The conversion shall take effect[~~, in the case of a partnership,~~] when the articles of organization are filed with the office of the Secretary of State or***, as provided in Section 94 of this Act,*** at ***a***[~~any~~] later date specified in the articles of organization[~~ or, in the case of a limited partnership, when the certificate of limited partnership is canceled~~].

(5) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a conversion shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the conversion takes effect. If the other party to a transaction with the limited liability company reasonably believes when entering the transaction that the member undertaking the transaction is a partner in a partnership or a general partner in a limited partnership, the member shall be liable for an obligation incurred by the limited liability company within ninety (90) days after the conversion takes effect. The partner's or general partner's liability for all other obligations of the limited liability company incurred after the conversion takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a conversion shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect.

Section 125. KRS 275.375 is amended to read as follows:

(1) A partnership or limited partnership that has been converted pursuant to this chapter shall be for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) All property ***and contract rights*** owned by***, and all rights, privileges, and immunities of*** the converting partnership or limited partnership shall remain vested in the converted ***limited liability company without assignment, reversion, or impairment***[~~business entity~~];

(b) All obligations of the converting partnership or limited partnership shall continue as obligations of the converted ***limited liability company***[~~business entity~~];[~~ and~~]

(c) An action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred ***and the name of the converted limited liability company may be substituted in any pending action or proceeding for the name of the converting partnership or limited partnership; and***

(d) The written operating agreement of the converted limited liability company shall be binding upon each person who becomes a member of the limited liability company.

Section 126. KRS 275.380 is amended to read as follows:

(1) Subject to the Constitution of this Commonwealth:

(a) The laws of the state or other jurisdiction under which a foreign limited liability company is organized shall govern its organization and internal affairs***, including the inspection of the books, records, and documents,*** and the liability of its members, except as provided in subsection (2) of this section; and

(b) A foreign limited liability company shall not be denied registration by reason of any difference between the laws of another jurisdiction under which a foreign limited liability company is organized and the laws of this Commonwealth.

(2) A certificate of authority obtained pursuant to this chapter shall not authorize a foreign limited liability company to exercise any powers or engage in any business that a domestic limited liability company is forbidden to exercise or engage in by the laws of this Commonwealth.

Section 127. KRS 275.395 is amended to read as follows:

(1) A foreign limited liability company may apply for a certificate of authority to transact business in this Commonwealth by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign limited liability company, or if its name is unavailable for use in this Commonwealth, a company name that satisfies the requirements of KRS 275.410;

(b) The name of the state or country under whose law it is organized;

(c) Its date of organization and, if the limited liability company has a specific date of dissolution, the latest date upon which it is to dissolve;

(d) The street address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company;

(e) The address of its registered office in this Commonwealth and the name of its registered agent at that office;

(f) The names and usual business addresses of its current managers, if any; and

(g) A statement that, as of the date of filing, the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its ***organization***[~~formation~~].

(2) A written statement of the initial registered agent consenting to serve in that capacity shall accompany ***an application for*** the certificate of authority.

Section 128. KRS 275.400 is amended to read as follows:

(1) A foreign limited liability company authorized to transact business in this Commonwealth shall obtain an amended certificate of authority from the Secretary of State if it changes:

(a) Its ***real***[~~company~~] name;

(b) The latest date on which it is to dissolve; or

(c) The state or country of its organization.

(2) The requirements of KRS 275.395 for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

Section 129. KRS 275.405 is amended to read as follows:

(1) A certificate of authority shall authorize the foreign limited liability company to which it is issued to transact business in this Commonwealth subject to the right of the Commonwealth to revoke the certificate as provided in this chapter.

(2) A foreign limited liability company with a valid certificate of authority shall have the same but no greater rights as, and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic limited liability company.

(3) This chapter shall not authorize this Commonwealth to regulate the organization or internal affairs***, including the inspection of books, records and documents,*** of a foreign limited liability company authorized to transact business in this

Commonwealth.

Section 130. KRS 275.410 is amended to read as follows:

(1) If the ***real*** name of a foreign limited liability company does not satisfy the requirements of KRS 275.100, the foreign limited liability company, to obtain or maintain a certificate of authority to transact business in this Commonwealth:

(a) May add to its name for use in this Commonwealth:

1. The words "limited liability company," "limited company," "professional limited liability company," or "professional liability company." The word "limited" may be abbreviated as "Ltd" and the word "Company" may be abbreviated as "Co."; or

2. The abbreviations "LLC," "LC," "PLLC," or "PLC"; or

(b) May use a fictitious name to transact business in this Commonwealth if its real name is unavailable and it delivers to the Secretary of State for filing a certificate by a person authorized to execute documents pursuant to KRS 275.045(6) that the limited liability company has adopted the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the name, including a fictitious name, of a foreign limited liability company shall be distinguishable from ***any name of record***[~~the name of any other business entity upon the records~~] with the Secretary of State.

(3) A foreign limited liability company may apply to the Secretary of State for authorization to use in this Commonwealth the name of another business entity, organized or authorized to transact business in this Commonwealth, that is not distinguishable[~~ upon his records~~] from ***a***[~~the~~] name ***of record with the Secretary of State***[~~applied for~~]. The Secretary of State shall authorize use of the name applied for if:

(a) The business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or

(b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.

(4) A foreign limited liability company may use in this Commonwealth the name, including the fictitious name, of another business entity that is used in this Commonwealth if the business entity is organized or authorized to transact business in this Commonwealth and the foreign limited liability company:

(a) Has merged with the other business entity;

(b) Has been formed by reorganization of the business entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other business entity.

(5) If a foreign limited liability company authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and obtains an amended certificate of authorization under KRS 275.400.

Section 131. KRS 279.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Acquire" means to construct, purchase, obtain by lease, devise, gift or by eminent domain, or to obtain by any other lawful means.

(2) "Board" means the board of directors of a corporation formed under this chapter.

(3) ***"Business entity" means a domestic and foreign limited liability company, corporation, general partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association;***

(4) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country;

(5) "Farm Credit Act" means Section 12 of the Federal Farm Credit Act of 1935 and the amendments thereto.

(6)[~~(4)~~] "Federal agency" means and includes the United States, the President of the United States, and all federal authorities, instrumentalities and agencies in the ordinary sense.

(7)[~~(5)~~] "Improve" means to construct, reconstruct, extend, enlarge, alter, better or repair.

(8)[~~(6)~~] "Member" means and includes each person signing the articles of incorporation of a corporation formed under this chapter, each person later admitted to membership according to law or according to the articles of incorporation or bylaws of the corporation, and each common stockholder in a corporation organized under this chapter that has capital stock.

(9) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity;

(10)[~~(7)~~] "Obligations" means and includes negotiable bonds, notes, debentures, interim certificates or receipts and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under this chapter.

(11) "Real name" shall have the meaning set forth in Section 164 of this Act;

(12)[~~(8)~~] "System" means and includes any plant, works, facilities and properties, and all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or distribution of electric energy.

Section 132. KRS 279.030 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) The name of the corporation, which shall be ***distinguishable from any name of record with the Secretary of State***[~~such as to distinguish it from any other corporation~~].

(b) The purpose for which it is formed.

(c) The place, including the county, where its principal office will be located.

(d) A reasonable description of the territory in which its operations are to be conducted.

(e) The number of directors.

(f) The names and post office addresses of the directors who are to manage the affairs of the corporation for the first year of its existence, or until the first meeting called to elect directors, or until the successors of the first directors are elected and have qualified.

(g) The period limited for the duration of the corporation, or that the corporation is to be perpetual.

(h) If the corporation is organized without capital stock, the terms upon which members may be admitted and the terms upon which their membership shall terminate.

(i) If the corporation is organized with capital stock, the amount of the stock, the number of shares into which it is divided and the par value.

(j) If the capital stock is divided into common and preferred stock, as it may be, the number of shares to which preference is granted and the number of shares to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each.

(2) The articles of incorporation may contain any other lawful provision that the incorporators choose to insert for the purpose of regulating the business and affairs of the corporation, for the purpose of creating, defining, limiting or regulating the rights, powers and duties of the corporation and its board of directors and members, and the exercise of any such powers, or for the purpose of creating or defining the rights and privileges of the members of the corporation among themselves, including separation of members into classes or districts and providing for representation of each class or district on the board of directors.

(3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records. The Secretary of State shall authorize use of the name applied for if:

(a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

(5) This chapter does not control the use of assumed names.

(6) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 133. KRS 279.060 is amended to read as follows:

The words "Rural Electric Cooperative" shall not be used in the ***real, fictitious, or assumed*** name of any corporation***, limited liability company, partnership, limited partnership, or other business entity*** other than one (1) formed under this chapter.

Section 134. KRS 279.310 is amended to read as follows:

As used in KRS 279.320 to 279.600, unless the context requires otherwise:

(1) "Cooperative" means any corporation organized under KRS 279.320 to 279.600 or which becomes subject to those sections in the manner provided therein.

(2) "Person" means any natural person, firm, association, corporation, business trust, or partnership.

(3) As used in this chapter, the term "telephone service" shall include in its meaning communications services of all kinds allowed to any other telephone utility, authorized by regulatory agency and with some unregulated, that being the transmission of voice, data, sounds, signals, pictures, writing, or signs of all kinds, by use of wire, radio, light, electro-magnetic impulse, broadband (wideband) spectrum, or any other transmission mode and facility used in rendition of such

services; but shall not include in their meaning message telegram service, or radio broadcasting services or facilities within the meaning of Section 153(O) of the Federal Communications Act of 1934, as amended.

(4) "Acquire" means to construct, purchase, obtain by lease, devise, gift, or eminent domain, or to obtain by any other lawful means.

(5) "Board" means the board of trustees of a corporation formed under KRS 279.320 to 279.600.

(6) "Federal agency" means and includes the United States, the President of the United States, and all federal authorities, instrumentalities, and agencies in the ordinary sense.

(7) "Improve" means to construct, reconstruct, extend, enlarge, alter, better, or repair.

(8) "Member" means and includes each person signing the articles of incorporation of a corporation formed under KRS 279.320 to 279.600, each person later admitted to membership according to law or according to the articles of incorporation or bylaws of the corporation, and each common stockholder in a corporation, having capital stock, organized under KRS 279.320 to 279.600.

(9) "Obligations" means and includes negotiable bonds, notes, debentures, interim certificates or receipts, and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under KRS 279.320 to 279.600.

(10) "System" means and includes any plant, works, facilities, and properties, and all parts thereof and appurtenances thereto, used or useful in the operation and maintenance of telephone communication service.

(11) "Rural area" shall be deemed to mean any area of this state not included within the boundaries of any incorporated or unincorporated city or of a consolidated local government, having a population in excess of fifteen hundred (1,500) inhabitants.

(12) "Telephone company" means any natural person, firm, association, corporation, or partnership owning, leasing, or operating any line, facility, or system used in the furnishing of telephone service within this state.

(13) "Business entity" means a domestic and foreign limited liability company, corporation, general partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association.

(14) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country.

(15) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity.

(16) "Real name" shall have the meaning set forth in Section 164 of this Act.

Section 135. KRS 279.340 is amended to read as follows:

(1) The name of a cooperative shall include the words "Telephone," "Telecommunications," "Company" or "Corporation" and the abbreviation "Inc.," unless, in an affidavit made by its president or vice president, and filed with the Secretary of State, or in an affidavit made by a person signing articles of incorporation, consolidation, merger or conversion, which relate to such cooperative, and filed, together with any such articles, with the Secretary of State, it shall appear that the cooperative desires to do business in another state and is or would be precluded therefrom by reason of the inclusion of such words or either thereof in its name. The name may include the word "Cooperative."~~[The name of a cooperative shall be distinct from the name of any other cooperative or corporation organized under the laws of, or authorized to do business in this state.]~~

(2) Except as authorized by subsections (3), (4), or (5) of this section, the name of a cooperative shall be distinguishable from any name of record with the Secretary of State.

(3) This section shall not apply to any corporation which becomes subject to KRS 279.310 to 279.600 by complying with the provisions of KRS 279.470, which does business in this state pursuant to KRS 279.570 and which elects to retain a corporate name which does not comply with this section.

(4) A cooperative may apply to the Secretary of State for authorization to use a name that is not distinguishable from a name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:

(a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying cooperative; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(5) A cooperative may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user cooperative:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

(6) This chapter does not control the use of assumed names.

(7) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 136. KRS 304.38-040 is amended to read as follows:

(1) A corporation, limited liability ***company***[~~corporation~~], or partnership may apply to the executive director for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this subtitle.

(2) Health maintenance organizations which are corporations may be organized by applying the provisions of KRS Chapter 271B, if for profit, and KRS Chapter 273, if for nonstock, nonprofit, to the extent that the same are not inconsistent with the express provisions of this subtitle.

(3) Each application for a certificate of authority shall be submitted to the executive director upon a form prescribed by him and shall set forth or be accompanied by:

(a) Evidence that the applicant has been issued a certificate of need in accordance with the provisions of KRS Chapter 216B, or evidence that no certificate of need is required by KRS Chapter 216B;

(b) Articles of incorporation***, articles of organization,***[~~ or~~] partnership agreement***, or other applicable documents*** in quadruplicate[~~ originals~~] acknowledged and verified by the applicant[~~, such as the articles of incorporation, articles of association, partnership agreement, or other applicable documents~~];

(c) The initial bylaws***, operating agreement or other equivalent documents*** of the organization in triplicate (or any other similar documents);

(d) A statement which shall include describing the health maintenance organization:

1. The health services to be offered;
2. The financial risks to be assumed;
3. The initial geographic area to be served;
4. Pro forma financial projections for the first three (3) years of operations including the assumptions the projections are based upon;
5. The sources of working capital and funding;
6. A description of the persons to be covered by the health maintenance organization;
7. Any proposed reinsurance arrangements;
8. Any proposed management, administrative, or cost-sharing arrangements; and
9. A description of the health maintenance organization's proposed method of marketing;

(e) The names, addresses, and positions of the initial board of directors, board of trustees, or other governing body responsible for the conduct of the affairs of the applicant;

(f) Any proposed evidence of coverage to be issued by the applicant to individuals, enrollees, groups, or other contract holders; and

(g) Evidence of financial responsibility as provided in KRS 304.38-060.

Section 137. KRS 304.38-070 is amended to read as follows:

(1) This subsection applies to a corporation or limited liability ***company***[~~corporation~~] applying for and holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a corporation or limited liability ***company***[~~corporation~~] shall possess and thereafter maintain unimpaired paid-in capital stock of one million dollars ($1,000,000), and, when first so authorized, shall possess initial free surplus of not less than two million dollars ($2,000,000);

(b) A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. Notwithstanding the other provisions hereof, the exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date it has accumulated capital and surplus equal to or in excess of the capital and surplus required by paragraph (a) of this subsection; and

(c) Each corporation authorized as a health maintenance organization shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars ($250,000) and shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the executive director. A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency as required for such authority immediately prior to July 15, 1986. The exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which it has accumulated additional surplus equal to or in excess of the additional surplus required by this subsection.

(2) This subsection applies to a partnership applying for or holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a partnership shall possess, when first so authorized, a total of at least three million dollars ($3,000,000) in its capital accounts. Thereafter, a partnership authorized as a health maintenance organization shall possess and maintain a total of at least one million two hundred fifty thousand dollars ($1,250,000) in its capital accounts and shall comply at all times with the risk-based capital requirement established in administrative regulations promulgated by the executive director;

(b) A partnership holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. The exception provided for in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which the total of the funds which it has accumulated in its capital accounts equal or exceed the total of the funds in its capital accounts required by this subsection.

(3) A corporation, partnership, or limited liability ***company***[~~corporation~~] applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with risk-based capital (RBC) requirements as follows:

(a) For purposes of this subsection, risk-based capital shall be determined in accordance with the risk-based capital requirements for health maintenance organizations established under this subtitle and any administrative regulation promulgated pursuant to KRS Chapter 13A, except as otherwise provided in this subsection. A corporation, partnership, or limited liability ***company***[~~corporation~~] applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with the same risk-based capital requirements as other health maintenance organizations, except that no additional phase-in or risk-based capital reports shall be required for 2000 or 2001, and the risk-based capital levels shall be established in accordance with paragraph (b) of this subsection;

(b) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows:

1. "Company Action Level RBC" means the product of two (2.0) and its Authorized Control Level RBC;

2. "Regulatory Action Level RBC" means the product of one and five-tenths (1.5) and its Authorized Control Level RBC;

3. "Authorized Control Level RBC" means the product of four-tenths (.40) and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and

4. "Mandatory Control Level RBC" means the product of seven-tenths (.70) and the Authorized Control Level RBC; and

(c) A corporation, partnership, or limited liability ***company***[~~corporation~~] applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this section and this subtitle, and shall not be eligible to calculate its risk-based capital according to this subsection.

Section 138. KRS 311A.070 is amended to read as follows:

(1) When a complaint is filed against an ambulance service, emergency medical services provider, or an emergency medical services educational institution or an employee or volunteer thereof, or when the office of the board is contemplating action against an ambulance service, emergency medical services provider, or emergency medical services educational institution or an employee or volunteer thereof, written notice of the complaint or proposed action shall be sent to:

(a) The county judge/executive, in the event of a county-operated ambulance service, emergency medical services provider, or educational institution;

(b) The mayor, in the event of a city-operated ambulance service, emergency medical services provider, or educational institution;

(c) The mayor, in the event of an urban-county government-operated ambulance service, emergency medical services provider, or educational institution;

(d) The chairman of the fire protection district, in the event of a fire district-operated ambulance service, emergency medical services provider, or educational institution;

(e) The head of the public agency, in the event of an ambulance service, emergency medical services provider, or educational institution operated by a public agency other than specified in paragraphs (a) to (d) of this subsection;

(f) The president, chancellor, or other officer in charge of an educational institution operated, in the event of an ambulance service or educational institution;

(g) The chief operating officer or president of a nonprofit corporation, corporation for profit, limited liability ***company***[~~corporation~~], or other business entity, in the event of an ambulance service, emergency medical services provider, or educational institution operated by the business entity; and

(h) Both the ambulance service, emergency medical services provider, or educational institution officials specified in this subsection and the officials of any public agency contracting for services.

(2) The notice specified in this section shall be in addition to any notice provided to any other person or organization.

Section 139. KRS 313.240 is amended to read as follows:

(1) No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, or corporation except the name of a professional service corporation established under KRS Chapter 274***, a professional limited liability company established under KRS Chapter 275, a partnership established under the Kentucky Uniform Partnership Act, or a partnership established under the Kentucky Revised Uniform Partnership Act***. Any person practicing or offering to practice dentistry or dental surgery shall practice under his own name or the name of ***a***[~~the~~] professional service corporation***, professional limited liability company, or a partnership*** which includes his name. No such person shall conduct a dental office in his name nor advertise his name in connection with any dental office unless he personally performs services as a dentist or dental surgeon in such office or personally supervises such services as are performed in such office during a portion of the time such office is operated by him only, and shall not use his name in connection with that of any other dentist.

(2) No person shall be an incorporator, director, officer, ***member, manager,*** or shareholder in more than three (3) professional service corporations***, three (3) professional limited liability companies, or three (3) partnerships, or any three (3) of these business entities*** rendering dental or dental surgery services. No dentist or dental surgeon or group of dentists or dental surgeons shall practice in more than three (3) locations.

Section 140. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Board of Licensure for Professional Engineers and Land Surveyors;

(2) "Engineer" means a person who is qualified to engage in the practice of professional engineering by reason of special knowledge and use of:

(a) The mathematical, physical, and engineering sciences; and

(b) The principles and methods of engineering analysis and design, acquired by engineering education and practical engineering experience;

(3) "Professional engineer" means a person who is licensed as a professional engineer by the board;

(4) "Engineering" means any professional service or creative work, the adequate performance of which requires engineering education, training, and experience as an engineer.

(a) "Engineering" shall include:

1. Consultation, investigation, evaluation, planning, certification, and design of engineering works and systems;

a. Engineering design and engineering work associated with design/build projects;

b. Engineering works and systems which involve earth materials, water or other liquids, and gases;

c. Planning the use of land, air, and waters; and

d. Performing engineering surveys and studies;

2. The review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces this service or work, either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems, or projects with which the public welfare or the safeguarding of life, health, or property is concerned, when that professional service or work requires the application of engineering principles and data;

3. The teaching of engineering design courses in any program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or any engineering program deemed equivalent by the board;

4. The negotiation or solicitation of engineering services on any project in this state, regardless of whether the persons engaged in the practice of engineering:

a. Are residents of this state;

b. Have their principal place of business in this state; or

c. Are in responsible charge of the engineering services performed; and

5. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering that does not relate to the location or determination of land boundaries.

(b) "Engineering" shall not include the professional services performed by persons who:

1. Develop or administer construction project safety programs, construction safety compliance, construction safety rules or regulations, or related administrative regulations; or

2. Only operate or maintain machinery or equipment;

(5) "Practice of engineering" means the performance of any professional service included in subsection (4)(a) of this section;

(6) "Engineer in training" means a person who has passed the Fundamentals of Engineering Examination and is otherwise qualified to earn experience toward licensure as a professional engineer;

(7) "Responsible charge of engineering" means direct control and personal supervision of engineering, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved engineering program;

(8) "Land surveyor" means a person who is qualified to engage in the practice of land surveying by reason of special knowledge and use of mathematics, the physical and applied sciences, and the principles and methods of land surveying, acquired by education and practical experience in land surveying;

(9) "Professional land surveyor" means a person who is licensed as a professional land surveyor by the board;

(10) "Land surveying" means any professional service or work, the adequate performance of which requires the education, training, and experience as a land surveyor.

(a) "Land surveying" shall include, but not be limited to, the following:

1. Measuring and locating, establishing, or reestablishing lines, angles, elevations, natural and man-made features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surfaces of bodies of water involving the:

a. Determination or establishment of the facts of size, shape, topography, and acreage;

b. Establishment of photogrammetric and geodetic control that is published and used for the determination, monumentation, or description of property boundaries;

c. Subdivision, division, and consolidation of lands;

d. Measurement of existing improvements, including condominiums, after construction and the preparation of plans depicting existing improvements, if the improvements are shown in relation to property boundaries;

e. Layout of proposed improvements, if those improvements are to be referenced to property boundaries;

f. Preparation of physical written descriptions for use in legal instruments of conveyance or real property and property rights;

g. Preparation of subdivision record plats;

h. Determination of existing grades and elevations of roads and land;

i. Creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them; and

j. Certification of documents; and

2. The negotiation or solicitation of land surveying services on any project in this state, regardless of whether the persons engaged in the practice of land surveying:

a. Are residents of this state;

b. Have their principal office or place of business in this state; or

c. Are in responsible charge of the land surveying services or work performed.

(b) "Land surveying" shall not include:

1. The measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or the state of Kentucky;

2. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering, if the land surveying work does not relate to the location or determination of land boundaries; or

3. The design of grades and elevations of roads and land;

(11) "Practice of land surveying" means the performance of any professional service included in subsection (10)(a) of this section;

(12) "Land surveyor in training" means a person who has passed the Fundamentals of Land Surveying Examination and is otherwise qualified to earn experience toward licensure as a professional land surveyor;

(13) "Responsible charge of land surveying" means direct control and personal supervision of land surveying, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved land surveying program;

(14) "Business entity" means a corporation, partnership***, limited liability company, limited partnership***, or firm;

(15) "Offer to practice" means:

(a) A promise or commitment to engage in any act directly related to engineering or land surveying;

(b) Undertaking to engage in the practice of engineering or land surveying; or

(c) Any claim, express or implied, by any person representing himself or herself to be a professional engineer or professional land surveyor;

(16) "Certification" means affixing a seal or stamp, signature, and date by a professional engineer or professional land surveyor to represent that the services or work addressed therein was performed by that professional engineer or professional land surveyor according to his or her knowledge, information, and belief, and that it was completed in accordance with applicable standards of practice. "Certification" shall not mean a guaranty or warranty, either express or implied;

(17) The "Fundamentals of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;

(18) The "Fundamentals of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;

(19) The "Principles and Practice of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying; and

(20) The "Principles and Practice of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying.

Section 141. KRS 322.060 is amended to read as follows:

(1) (a) A business entity shall not engage in the practice of engineering in this state unless:

1. At least one (1) of its principals, officers, or a designated employee is a professional engineer who is in responsible charge of the engineering work; and

2. The board has issued a permit to the business entity.

(b) To apply for a permit, a business entity offering engineering services in this state shall file with the board, on a form prescribed by the board:

1. The names and addresses of all principals and officers;

2. The license number of principals, officers, and employees who are professional engineers in responsible charge of the business entity's practice of engineering in this state;

3. A list of locations of all offices in this state at which the business entity offers professional engineering services;

4. A statement of qualifications for the permit; and

5. References as required by administrative regulations promulgated by the board.

(c) If more than one (1) place of business is maintained in this state, a professional engineer shall be in responsible charge of the engineering work for each office.

(d) A professional engineer who renders occasional, part-time, or consulting engineering services to or for a business entity required to hold a permit from the board under this section shall not be designated as the person in responsible charge of the engineering work.

(e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status in those items listed in paragraph (b) of this subsection.

(f) Individual professional engineers providing engineering services in their own names, or architectural firms offering engineering services incident to their practice, shall be excluded from the provisions of this subsection.

(2) (a) A business entity shall not engage in the practice of land surveying in this state unless:

1. At least one (1) of its principals, officers, or a designated employee is a professional land surveyor in direct responsible charge of the land surveying work; and

2. The board has issued a permit to the business entity.

(b) To apply for a permit, a business entity offering land surveying services in this state shall file with the board, on a form prescribed by the board:

1. The names and addresses of all principals and officers;

2. The license numbers of the principals, officers, and employees who are professional land surveyors in responsible charge of the practice of land surveying in this state;

3. A list of locations of all offices in this state at which the business entity offers professional land surveying

services;

4. A statement of qualifications for the services relating to the permit; and

5. References as required by administrative regulations promulgated by the board.

(c) If more than one (1) place of business is maintained in this state, a professional land surveyor shall be in responsible charge of the land surveying work for each office.

(d) A professional land surveyor who renders occasional, part-time, or consulting services to or for a business entity required to hold a permit from the board under this section shall not be designated as the person in responsible charge of the land surveying activity of the firm.

(e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status.

(f) Individual professional land surveyors providing land surveying services in their own names shall be excluded from the provisions of this subsection.

(3) (a) After a business entity applies for a professional engineering or professional land surveying permit and pays the proper fees, the board shall review the application and, upon approval, shall issue a permit.

(b) The board may suspend, revoke, or refuse to issue a permit for violation of the code of professional practice and conduct.

(c) The expiration date and renewal period for each permit and renewal procedures shall be established by administrative regulations promulgated by the board.

(4) (a) No business entity shall be relieved of responsibility for the conduct or acts of its agent, employees, or officers by reason of its compliance with this section.

(b) No individual practicing professional engineering or professional land surveying shall be relieved of the responsibility for professional services performed by reason of the individual's employment or relationship with a business entity holding a permit under this section.

(5) Disciplinary action against a business entity holding a permit under this section shall be administered in the same manner and on the same grounds as disciplinary action against an individual professional engineer or professional land surveyor.

(6) The Secretary of State shall not ***accept articles***[~~issue a certificate~~] of incorporation***, articles of organization, statement of qualification or certificate of limited partnership*** or ***an application for*** a certificate of ***authority to transact business***[~~registration~~] as a foreign corporation***, limited liability company or limited partnership or a statement of foreign qualification from a business entity***[~~ authorized to do business in this state to a firm~~] which includes in its name or, among objects for which it is established, any of the words, "engineer," "engineering," "surveyor," "surveying," "land surveying," or any modification or derivation thereof, unless the ***filing***[~~application for incorporation or registration~~] with the Secretary of State includes a certificate or letter from the board.

Section 142. KRS 362.401 is amended to read as follows:

As used in KRS 362.403 to 362.525, unless the context otherwise requires, the term:

(1) "Certificate of limited partnership" means the certificate referred to in KRS 362.415, or the certificate of limited partnership as amended or restated.

(2) "Business entity" means a domestic or foreign limited liability company, corporation, partnership, limited partnership, business or statutory trust and not-for-profit unincorporated association.

(3) "Contribution" means any cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(4)[~~(3)~~] "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in KRS 362.445.

(5)[~~(4)~~] "Foreign limited partnership" means a limited partnership formed under the laws of any state other than this state and having as partners one (1) or more general partners and one (1) or more limited partners.

(6)[~~(5)~~] "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and is named in the certificate of limited partnership as a general partner.

(7)[~~(6)~~] "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(8)[~~(7)~~] "Limited partnership" or "domestic limited partnership" means a partnership formed by two (2) or more persons under the laws of this state and having one (1) or more general partners and one (1) or more limited partners.

(9) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity.

(10)[~~(8)~~] "Partner" means a limited partner or general partner.

(11)[~~(9)~~] "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(12)[~~(10)~~] "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(13)[~~(11)~~] "Person" means a natural person;[~~ partnership; limited partnership, which is either domestic or foreign;~~] trust; estate; ***or business entity***[~~association; or corporation~~].

(14) "Real name" shall have the meaning set forth in Section 164 of this Act.

(15)[~~(12)~~] "State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

Section 143. KRS 362.403 is amended to read as follows:

The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain the word "Limited" or its abbreviation, "Ltd.";

(2) Shall not contain the name of a limited partner unless:

  (a) That name is also the name of a general partner or the corporate name of a corporate general partner; or

  (b) The business of the limited partnership had been carried on under that name before the admission of that limited partner; and

(3) Shall[~~ not be the same as, and shall~~] be distinguishable ***from any name of record with the Secretary of State***[~~upon the records of the Secretary of State from, the name of any corporation or limited partnership organized under the laws of this state, or licensed or registered as a foreign corporation or foreign limited partnership in this state, or any assumed name which is registered with the Secretary of State or a name which at that time is reserved by another person under the laws of this state~~].

Section 144. KRS 362.405 is amended to read as follows:

(1) The exclusive right to the use of a name may be reserved by:

  (a) Any person intending to organize a limited partnership under KRS 362.403 to 362.525 and to adopt that name;

  (b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

  (c) Any foreign limited partnership intending to register in this state and adopt that name; or

  (d) Any person intending to organize a foreign limited partnership and intending to have it registered in this state and adopt that name.

(2) The reservation shall be made by filing with the Secretary of State an application, executed by the applicant, to reserve a specified name. If the Secretary of State finds that the name is available for use by a domestic limited partnership or foreign limited partnership, it shall reserve the name for the exclusive use of the applicant for a nonrenewable period of one hundred twenty (120) days. The right to the exclusive use of a reserved name may be transferred to any other person by filing with the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee. ***During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.***

(3) The holder of a reserved name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 145. KRS 362.555 is amended to read as follows:

(1) To become and to continue as a registered limited liability partnership, a partnership ***that is not a limited partnership*** shall file with the Secretary of State a statement or a renewal statement, as the case may be, stating the name of the partnership; the address of its principal office; the number of partners; the names of the partners; a brief statement of the business in which the partnership engages; and that the partnership registers its status or renews its status, as the case may be, as a registered limited liability partnership.

(2) The statement or renewal statement shall be executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a statement or renewal statement.

(3) The statement or renewal statement shall be accompanied by a fee of two hundred dollars ($200).

(4) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed statement or renewal statement with the required fee.

(5) Registration shall be effective for one (1) year after the date a statement is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a withdrawal notice. Registration, whether pursuant to an original statement or a renewal statement, as a registered limited liability partnership shall be renewed if, during the sixty (60) day period

preceding the date the statement or renewal statement otherwise would have expired, the partnership files with the Secretary of State a renewal statement. Registration pursuant to a renewal statement shall expire one (1) year after the date the registration would have expired if the last renewal of the registration had not occurred.

(6) The status of a partnership as a registered limited liability partnership shall not be affected by changes made in the information stated in the statement or renewal statement after the filing of the statement or renewal statement.

(7) The Secretary of State may provide forms for use under this section.

Section 146. KRS 362.595 is amended to read as follows:

(1) The failure of a registered limited liability partnership to comply with any requirements of KRS 362.555 shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the registered limited liability partnership or prevent the registered limited liability partnership from defending any action, suit, or proceeding in any court of this Commonwealth.

(2) Subject to subsection (3) of this section, the protection from liability of a partner of a registered limited liability partnership under KRS 362.220(2) shall not be altered by reason of the failure of the partnership to comply with any requirements of KRS 362.555.

(3) A partner in a partnership which has previously filed a statement under KRS 362.555, and which has failed to comply with the renewal statement requirements of KRS 362.555, shall not be entitled to protection from liability under KRS 362.220(2) in any action or proceeding brought by any person who did business with the partnership during the period it failed to comply and who did not at that time have actual knowledge that it was a limited liability partnership.

~~[(4) A foreign limited liability partnership, by transacting business in this Commonwealth, shall be deemed to appoint the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this Commonwealth.]~~

Section 147. KRS 362.1-109 is amended to read as follows:

(1) The Secretary of State shall collect the following fees when the statements described in this subsection are delivered for filing:

(a)	Statement of Partnership Authority	$40.00
(b)	Statement of Denial	$20.00
(c)	Statement of Dissociation	$20.00
(d)	Statement of Dissolution	$40.00
(e)	Statement of Merger	$40.00
(f)	Statement of Qualification	$40.00
(g)	Amendment to a Statement of Qualification	$40.00
(h)	Statement of Foreign Qualification	$90.00
(i)	Reinstatement of a Statement of Qualification	$100.00
(j)	Change of Registered Agent or Change of the Address of the Registered Office, or Both	$10.00
(k)	Registered Agent's Statement of Change of Registered Office for Each Affected Partnership	$10.00
	not to exceed a total of	***$1,000.00***
(l)	Change of the Mailing Address of the Chief Executive Office	$10.00
(m)	Application to Reserve a Name for Use by a Domestic or Foreign Partnership	$15.00
(n)	Notice of the Transfer of a Name Reserved for Use by a Domestic or Foreign Partnership	$15.00
(o)	Application for Registered Name	$36.00
(p)	Application for Renewal of Registered Name	$36.00
(q)	Annual report	$15.00
(r)	Amendment to the annual report	$10.00
(s)	All other filings	$40.00

(2) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed statements relating to a domestic or foreign partnership:

(a) Fifty cents ($0.50) a page for copying; and

(b) Five dollars ($5) for the certificate.

Section 148. KRS 362.1-115 is amended to read as follows:

(1) A person may apply to the Secretary of State to reserve the exclusive use of a partnership name, including the fictitious name, for a limited liability partnership or for a foreign limited liability partnership whose partnership name is not available for use in this Commonwealth. If the Secretary of State finds that the name applied for is available, then the Secretary of State shall reserve the name for the applicant's exclusive use for ***a***[~~one (1) nonrenewable~~] period of one hundred twenty (120) days. ***During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.***

(2) The holder of a reserved partnership name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the holder for whom the name was reserved, and specifying the name and address of the transferee.

(3) The holder of a reserved partnership name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 149. KRS 362.1-504 is amended to read as follows:

(1) ***This section provides the exclusive remedy by which the judgment creditor of a partner or the transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.***

(2) On application ***to a court of competent jurisdiction*** by a judgment creditor of a partner or[~~ of~~] a partner's transferee, a court[~~ having jurisdiction~~] may charge the transferable interest of the judgment debtor ***with payment of the unsatisfied amount of***[~~to satisfy~~] the judgment. ***To the extent so charged, the judgment creditor has only the rights of a transferee and***[~~The court order charging the transferable interest of a partner or of a partner's transferee shall be the sole remedy of a judgment creditor, who~~] shall have no right[~~ under this subchapter~~] to participate in the management of or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require ***to give effect to the charging order***.

(3)[~~(2)~~] A charging order constitutes a ***lien on and the*** right to receive distributions made with respect to the judgment debtor's transferable interest in the partnership.

(4) The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee. ***A charging order does not of itself constitute an assignment of the transferable interest.***

(5)[~~(3)~~] At any time before foreclosure, an interest charged may be redeemed:

(a) By the judgment debtor;

(b) With property other than partnership property, by one (1) or more of the other partners; or

(c) With partnership property, by one (1) or more of the other partners with the consent of all of the partners whose interests are not so charged.

(6)[~~(4)~~] This subchapter does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

[~~(5) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.~~]

Section 150. KRS 362.1-802 is amended to read as follows:

(1) Subject to subsection (2) of this section, a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

(2) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:

(a) The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and

(b) The rights of a third party accruing under KRS 362.1-804(1) or arising out of conduct in reliance on the dissolution before the third party has notice of the waiver shall not be adversely affected.

(3) The dissolution of a partnership that is or was a limited liability partnership shall not abate or suspend KRS 362.1-306(3).

Section 151. KRS 362.1-1104 is amended to read as follows:

(1) Activities of a foreign limited liability partnership which do not constitute transacting business for the purposes of KRS 362.1-1001 to 362.1-1103 include:

(a) Maintaining, defending, or settling an action or proceeding;

(b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositories with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;

(g) Creating or acquiring indebtedness, with or without a mortgage, or other security interest in property;

(h) Collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;

(i) Conducting an isolated transaction that is completed within thirty (30) days and is not one (1) in the course of repeated transactions of a like nature;

(j) Owning, without more, real or personal property; or

(k) Transacting business in interstate commerce.

(2)[~~For purposes of KRS 362.1-1101 to 362.1-1105, the ownership in this Commonwealth of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this Commonwealth.~~

~~(3)~~] The list of activities in subsection (1) of this section shall not be considered exhaustive. This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership or any partner therein to service of process, taxation, or regulation under any other law of this Commonwealth. ***The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210.***

Section 152. KRS 362.2-109 is amended to read as follows:

(1) A person may apply to the Secretary of State to reserve the exclusive use of a limited partnership name, including the fictitious name for a foreign limited partnership whose limited partnership name is not available for use in this Commonwealth. If the Secretary of State finds that the limited partnership name applied for is available, then the Secretary of State shall reserve the name for the applicant's exclusive use for ***a***[~~one (1) nonrenewable~~] period of one hundred twenty (120) days. ***During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.***

(2) The holder of a reserved limited partnership name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the holder for whom the name was reserved, and specifying the name and address of the transferee.

(3) The holder of a reserved limited partnership name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 153. KRS 362.2-119 is amended to read as follows:

(1) The Secretary of State may prescribe and furnish on request forms for:

(a) A certificate of existence or authorization;

(b) An application for a certificate of authority;

(c) An application for a certificate of withdrawal;

(d) A statement of change of registered office or registered agent;

(e) A statement of change of designated office;

(f) Application to reserve ***or renew the reservation of*** a name;

(g) Application to cancel the reservation of a name;

(h) Resignation of a registered agent;

(i) The annual report;

(j) An amendment to the annual report; and

(k) Amended application for certificate of authority.

(2) The Secretary of State may mandate the use of the forms listed in subsection (1) of this section.

(3) The Secretary of State may prescribe and furnish on request forms for other records required or permitted to be filed pursuant to this subchapter, but their use shall not be mandatory.

Section 154. KRS 362.2-121 is amended to read as follows:

(1) A record that satisfies the requirements of this section, and of any other section of this subchapter that adds to or varies these requirements, shall be entitled to filing by the Secretary of State.

(2) This subchapter shall require or permit filing the record in the Office of the Secretary of State.

(3) The record shall contain the information required by this subchapter. It may also contain other information.

(4) The record shall be typewritten or printed or, if electronically transmitted, it shall be in a format that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be in black. Manually signed photocopies or other reproduced copies of typewritten or printed records may be filed.

(5) The record shall be in the English language. A limited partnership name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any record that may be filed by a foreign limited partnership that is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the limited liability company is formed may be in a language other than English if accompanied by a reasonably-authenticated English translation.

(6) The person executing the record shall sign it and print beneath or opposite his or her signature the names of the person and the capacity in which he or she signs.

(7) The person executing the record may do so as an attorney-in-fact. Powers of attorney relating to the execution of the record shall not be required to be provided to or filed with the Secretary of State.

(8) ***A person who executes a record to be filed with the Secretary of State shall be deemed to have declared under penalty of perjury that to that person's knowledge the contents of the statement are accurate.***

(9) (a) It shall be unlawful for any person to sign a statement the person knows is false in any material respect with the intent that the statement be delivered to the Secretary of State for filing.

(b) Any person who violates the provisions of this subsection shall be guilty of an offense punishable by a fine not to exceed one hundred dollars ($100).

(10) If the Secretary of State has prescribed a mandatory form for a record, then the record shall be in or on the prescribed form.

(11)[~~(9)~~] The record shall be delivered to the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, then the Secretary of State may require that it be accompanied by two (2) exact or conformed copies.

(12)[~~(10)~~] One (1) exact or conformed copy, or, if transmitted electronically, a reproduction in paper form, shall be filed with and recorded by the county clerk of the county in which the registered office of the limited partnership is located. A county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to limited partnerships. A document otherwise filed in accordance with this section with the Secretary of State shall be effective regardless of failure to file the document with the county clerk in accordance with this subsection.

(13)[~~(11)~~] When the record is delivered to the Secretary of State for filing, the correct filing fee and any other moneys required by this subchapter or other law to be collected by the Secretary of State therewith shall be paid or provision for payment made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, debit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, then the liability is not finally discharged until the Secretary of State receives final payment or credit of collectible funds.

Section 155. KRS 362.2-210 is amended to read as follows:

(1) A limited partnership subject to this subchapter or a foreign limited partnership authorized to transact business in this Commonwealth shall deliver to the Secretary of State for filing an annual report that states:

(a) The name of the limited partnership or foreign limited partnership and the state or country under whose law it is organized;

(b) The street address of its designated office or, if a foreign limited partnership, the street address of its principal office; and

(c) The street address of the limited partnership's registered office and the name of its registered agent at that office.

(2) Information in an annual report shall be current as of the date the annual report is delivered to the Secretary of State for filing.

(3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a limited partnership was formed or a foreign limited partnership was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the ensuing calendar years.

(4) If a filed annual report contains an address of a designated office or the name of a registered agent or registered office address which differs from the information shown upon the records of the Secretary of State immediately before the filing, then the differing information in the annual report is not considered a statement of change under KRS 362.2-115.

(5) A limited partnership or foreign limited partnership may amend the information in its last filed annual report by

delivery to the Secretary of State of an amendment to the annual report on an appropriate form provided by the Secretary of State.

Section 156. KRS 362.2-703 is amended to read as follows:

(1) ***This section provides the exclusive remedy by which the judgment creditor of a partner or the transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.***

(2) On application to a court of competent jurisdiction by any judgment creditor of a partner or ***a partner's*** transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment[~~ with interest~~]. To the extent so charged, the judgment creditor has only the rights of a transferee***, and shall have no right to participate in the management or to cause the dissolution of the partnership***. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

(3)[~~(2)~~] A charging order constitutes a lien on ***and the right to receive distributions made with respect to*** the judgment debtor's transferable interest. ***A charging order does not of itself constitute an assignment of the transferable interest.***

(4) The court may order a foreclosure upon the ***transferable*** interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(5)[~~(3)~~] At any time before foreclosure, an interest charged may be redeemed:

(a) By the judgment debtor;

(b) With property other than limited partnership property, by one (1) or more of the other partners; or

(c) With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

(6)[~~(4)~~] This subchapter does not deprive any partner or ***a partner's*** transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

[~~(5) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.~~]

Section 157. KRS 362.2-803 is amended to read as follows:

(1) A limited partnership continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its business, the limited partnership:

(a) May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of cancellation as provided in KRS 362.2-203, and perform other necessary acts; and

(b) Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.

(3) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:

(a) Has the powers of a general partner under KRS 362.2-804; and

(b) Shall promptly amend the certificate of limited partnership to:

1. State that the limited partnership does not have a general partner and that the person has been appointed to wind up the limited partnership; and

2. State the street and mailing address of the person.

(4) On the application of any partner, the Circuit Court of the county in which the limited partnership maintains its registered agent may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:

(a) A limited partnership does not have a general partner and, within a reasonable time following the dissolution, no person has been appointed pursuant to subsection (3) of this section; or

(b) The applicant establishes other good cause.

(5) The dissolution of a limited partnership shall not abate or suspend KRS 362.2-303, and the dissolution of a limited partnership that is a limited liability limited partnership shall not abate or suspend KRS 362.2-404(3).

Section 158. KRS 362.2-901 is amended to read as follows:

(1) The laws of the state or other jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs***, including the inspection of books, records and documents,*** and the liability of its partners as partners.

(2) A foreign limited partnership shall not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this Commonwealth.

(3) A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this Commonwealth.

Section 159. KRS 362.2-903 is amended to read as follows:

(1) Activities of a foreign limited partnership which do not constitute transacting business in this Commonwealth within the meaning of KRS 362.2-901 to 362.2-908 include:

(a) Maintaining, defending, and settling an action or proceeding;

(b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(c) Maintaining accounts in financial institutions;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;

(g) Creating or acquiring indebtedness, mortgages, or security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;

(i) ***Owning, without more, real or personal property;***

(j) Conducting an isolated transaction that is completed within thirty (30) days and is not one in the course of similar transactions of a like manner; and

(k)[~~(j)~~] Transacting business in interstate commerce.

(2) ***The list of activities in subsection (1) of this section shall not be considered exhaustive. This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this Commonwealth.***

(3) The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210[~~For purposes of KRS 362.2-901 to 362.2-908, the ownership in this Commonwealth of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this Commonwealth.~~

~~(3) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this Commonwealth~~].

Section 160. KRS 362.2-906 is amended to read as follows:

The Secretary of State may commence a proceeding under KRS 362.2-907 to revoke the certificate of authority of a foreign partnership authorized to transact business in this Commonwealth if:

(1) The foreign partnership does not file its annual report to the Secretary of State within sixty (60) days after it is due;

(2) The foreign partnership is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;

(3) The foreign partnership does not inform the Secretary of State that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance; or

(4) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of partnership records in the state or other jurisdiction under whose law the foreign ***limited partnership***[~~corporation~~] is ***organized***[~~incorporated~~] stating that it has been dissolved or disappeared as the result of a merger.

Section 161. KRS 362.2-1104 is amended to read as follows:

(1) After a plan of conversion ***of a limited liability company into a limited partnership*** is approved, a converting limited liability company shall deliver to the Secretary of State for filing a certificate of limited partnership, which shall include:

(a) A statement that the limited liability company has been converted into a limited partnership;

(b) The name of that limited liability company and its jurisdiction;

(c)[~~ The effective date of the conversion;~~

~~(d)~~] A statement that the conversion was approved as required by this subchapter;

(d)[~~(e)~~] A statement that the conversion was approved as required by the governing statute of the converted limited liability company; and

(e)[~~(f)~~] If the converted limited liability company is a foreign limited liability company not authorized to transact business in this Commonwealth, the street and mailing address of an office which the Secretary of State may use for the purposes of KRS 362.2-1105(3).

(2) A conversion of a limited liability company into a limited partnership becomes effective when the certificate of limited partnership takes effect.

Section 162. KRS 362.2-1108 is amended to read as follows:

(1) After a plan of merger is approved by each domestic or foreign partnership, limited partnership, limited liability company, or corporation that is a party to the merger, the surviving domestic or foreign partnership, limited partnership, limited liability company, or corporation shall deliver to the Secretary of State for filing articles of merger duly executed by each party to the merger setting forth:

(a) The name ***and***[~~of~~] jurisdiction of formation or organization of each constituent business entity which is to merge;

(b) The plan of merger;

(c) The name of the surviving business entity;

(d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and

(e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:

1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and

2. Appoints the Secretary of State as its agent for service of process in any such proceedings. The surviving entity shall specify the address to which a copy of process shall be mailed to it by the Secretary of State.

(2) The merger shall take effect on the later of the date of the filing of the articles of merger or the date set forth in the articles of merger, in which case it shall not be later than ninety (90) days after the date on which the articles of merger were filed.

(3) Upon the merger taking effect, if the surviving entity in the merger is a foreign partnership, limited partnership, or limited liability company, the entity shall be deemed:

(a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or rights of dissenting shareholders of each domestic corporation party to the merger; and

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger the amount, if any, to which they are entitled under Subtitle 13 of KRS Chapter 271B.

(4) The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable provisions of KRS Chapter 275 and for any domestic corporation party to the merger in accordance with KRS Chapter 271B.

(5) The filing of articles of merger shall act to cancel the certificate of limited partnership for a domestic limited partnership that is not the surviving entity of the merger and that partnership's certificate of limited partnership shall be canceled upon the effective date of the articles of merger.

Section 163. KRS 365.015 is amended to read as follows:

(1) (a) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman.

(b) The real name of a domestic:

1. General partnership that is not a limited liability partnership and that has not filed a statement of partnership authority is that name which includes the real name of each of the partners;

2. General partnership that is not a limited liability partnership and that has filed a statement of partnership authority is the name set forth on the statement of partnership authority;

3. General partnership that is a limited liability partnership is the name stated on the statement of qualification filed pursuant to KRS 362.1-1001 or predecessor law;

4. Limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS 362.2-201 or predecessor law;

5. Business trust is the name set forth in the declaration of trust;

6. Corporation is the name set forth in its articles of incorporation; and

7. Limited liability company is the name set forth in its articles of organization.

(c) The real name of a foreign:

1. General partnership is the name recognized by the laws of the jurisdiction under which it is formed as being the real name;

2. Limited liability partnership is the name stated in its statement of foreign qualification filed pursuant to

KRS 362.1-1102 or predecessor law;

3. Limited partnership is the name set forth in its certificate of limited partnership or the fictitious name adopted for use in this Commonwealth under KRS 362.2-905 or predecessor law;

4. Business trust is the name recognized by the laws of the jurisdiction under which it is formed as being the real name of the business trust;

5. Corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this Commonwealth under KRS 271B.15-060; and

6. Limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this Commonwealth under KRS 275.410.

(2) (a) No individual, general partnership, limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this Commonwealth under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such individual, partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, partnership, limited partnership, business trust, corporation, or limited liability company and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;

(e) The certificate shall be executed for an individual, by the individual; for a general partnership, by at least one (1) partner authorized to do so by the partners; for a limited partnership, by a general partner; for a business trust, by a trustee; for a corporation, by any person authorized to act for the corporation; and for a limited liability company, by a member or manager authorized to act for the limited liability company.

(3) Each certificate of assumed name for an individual shall be filed with the county clerk where the person maintains his or her principal place of business. Each certificate of assumed name for a general partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity maintains its registered agent for service of process or, if no registered agent for service of process is required, then with the county clerk of the county where the entity maintains its principal office. If the entity does not maintain a registered agent for service of process and does not maintain a principal office in this Commonwealth, then the certificate of assumed name shall be filed only with the Secretary of State.

(4) An assumed name shall be effective for a term of five (5) years from the date of filing and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.

(5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party formerly transacting business under the assumed name and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership by at least one (1) partner authorized to act for the partnership, for a limited partnership by a general partner, for a business trust by a trustee, for a corporation by any person authorized to act for the corporation, and for a limited liability company by a member or manager authorized to act for the limited liability company.

(6) A general partnership, except a limited liability partnership, shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:

(a) The assumed name and date of original filing;

(b) A statement setting out the changes in identity of the partners; and

(c) Shall be signed by at least one (1) partner authorized to do so by the partners.

(7) The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons.

(8) In the event of the merger or conversion of a partnership, limited partnership, business trust, corporation, or limited liability company, any certificate of assumed name filed by a party to a merger or conversion shall remain in full force and effect, as provided in subsection (4) of this section, as if originally filed by the business organization which survives the merger ***or***~~[of]~~ conversion.

(9) A certificate of assumed name may be amended to revise the real name or the address of the person or business organization holding the certificate of assumed name.

(10) A certificate of assumed name, or its amendment or cancellation, shall be effective on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at a time specified in the document as its effective time on the date it is filed. The document may specify a delayed effective time and date and, if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

(11) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars ($20) for filing each certificate, amendment, and renewal certificate.

Section 164. KRS 386.370 is amended to read as follows:

(1) A business trust is an express trust created by a written declaration of trust whereby property is conveyed to one (1) or more trustees, who hold and manage same for the benefit and profit of such persons as may be or become, the holders of transferable certificates evidencing the beneficial interest in the trust estate. For the purposes of KRS 386.370 to 386.440, business trusts shall include but are not limited to "Real Estate Investment Trusts" as defined by and which comply with the Federal Internal Revenue Code of ***1986***[~~1954~~] as amended or such section or sections of any subsequent Internal Revenue Code as may be applicable to real estate investment trusts.

(2) "Business entity" means a domestic or foreign limited liability company, corporation, partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association;

(3) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity.

Section 165. KRS 386.410 is amended to read as follows:

[~~Any business trust which exists under the laws of any foreign state and which are valid in said state shall be valid in the Commonwealth of Kentucky if they comply with the terms of KRS 386.390 to 386.440.~~]No beneficial owner of certificates in a foreign business trust shall have his interests therein assessed and no beneficial owner of a foreign trust shall be personally liable for any debts or liabilities incurred by the trustees or by the foreign business trust after June 16, 1966.

Section 166. KRS 386.420 is amended to read as follows:

(1) The written declaration of trust may provide for the election of successor trustees in the event of the death, resignation and removal of a trustee and may provide for the amendment of the declaration of trust. The declaration of trust may also contain such other provisions regarding the operating and administration of the business trust as may be necessary or desirable.

(2) ***A declaration of trust filed on or after the effective date of this Act shall name or shall be accompanied by a document naming the initial registered agent and registered office conforming to Section 20 of this Act.***

(3) The declaration of trust shall be recorded in the office of the Secretary of State of the Commonwealth of Kentucky and in the office of the county clerk in the county in which its principal place of business is located and a recording charge of $15 shall be paid at each of those offices.

Section 167. KRS 386.440 is amended to read as follows:

[~~(1)~~]A business trust may be sued for debts and other obligations incurred by the trustees in the performance of their duties under the declaration of trust, and for any damages resulting from the negligence of such trustees and its property shall be subject to attachment and execution in like manner as if it were a corporation.

[~~(2) Any foreign business trust doing business in this state must file with the Secretary of State of the Commonwealth of Kentucky the name of its agent in this state upon whom process may be served in any civil action instituted in the courts of this state.~~]

Section 168. KRS 275.090 is amended to read as follows:

(1) It shall be unlawful for any person to sign a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing.

(2) Any person who violates the provisions of this section shall be guilty of ***an offense***[~~a Class B misdemeanor~~] punishable by a fine not to exceed one hundred dollars ($100).

Section 169. KRS 362.1-105 is amended to read as follows:

(1) A statement may be filed in the office of Secretary of State. A filed statement has the effect provided in this subchapter with respect to partnership property located in or transactions that occur in this Commonwealth.

(2) A certified copy of a statement that has been filed in the office of the Secretary of State may be filed with and recorded by any county clerk to which the statement is presented for filing and recording.

(3) A statement filed by a partnership shall be executed by at least two (2) partners. Other statements shall be executed by a partner or other person authorized by this subchapter.

(4) A person authorized by this subchapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation. No amendment or cancellation shall be made with respect to a statement of merger or statement of dissolution after filing

with the Secretary of State.

(5) A person authorized by this subchapter to file a statement may correct a filed statement if the statement contains information that was incorrect as of the time of the original filing or if the statement was defectively executed, attested, sealed, verified, or acknowledged. A statement is corrected by filing with the Secretary of State a statement of correction that describes the original filing, specifies the information that was incorrect as of the original filing or the manner in which the execution was defective, corrects the incorrect information or the defective execution, and is accompanied by a copy of the original defective statement, accompanied by the proper filing fee. A statement of correction shall be effective as of the effective date of the statement it corrects except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, the statement of correction shall be effective in the same manner as they were on notice of the original statement.

(6) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

(7) A person who executes a statement shall be deemed to have declared under penalty of perjury that to that person's knowledge the contents of the statement are accurate.

(8) ***(a)*** It shall be unlawful for any person to sign a statement the person knows is false in any material respect with the intent that the statement be delivered to the Secretary of State for filing.

(b) Any person who violates this subsection shall be guilty of ***an offense***[~~a Class B misdemeanor~~] punishable by a fine not to exceed one hundred dollars ($100).

(9) The Secretary of State may collect a fee for filing or providing a certified copy of a statement. The county clerk may collect a fee of ten dollars ($10) for recording a statement.

(10) The Secretary of State may prescribe and furnish on request forms for:

(a) A statement of change of registered office or registered agent;

(b) An application to reserve a name;

(c) An application to cancel the reservation of a name;

(d) A resignation of a registered agent or registered office or both;

(e) An annual report; and

(f) An amendment to the annual report.

(11) The Secretary of State may mandate the use of the forms listed in subsection (10) of this section.

(12) The Secretary of State may prescribe and furnish on request forms for any other records required or permitted to be filed pursuant to this subchapter, but their use shall not be mandatory.

Section 170. KRS 362.575 is amended to read as follows:

(1) A registered limited liability partnership, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605, may conduct its business, carry on its operations, and have and exercise the powers granted by KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605 in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the General Assembly that the legal existence of any registered limited liability partnership formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605 shall be recognized outside the boundaries of this Commonwealth and that the laws of this Commonwealth governing any registered limited liability partnership transacting business outside this Commonwealth shall be granted the protection of full faith and credit under the Constitution of the United States.

(3) It is the policy of this Commonwealth that the internal affairs of registered limited liability partnerships, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this Commonwealth.

(4) Subject to any statutes for the regulation and control of specific types of business[~~ and subject to KRS 362.585,~~] limited liability partnerships, formed and existing under the laws of another state or jurisdiction, may engage in any business in this Commonwealth.

(5) It is the policy of this Commonwealth that the internal affairs of partnerships, including limited liability partnerships, formed and existing under the laws of another state or jurisdiction, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of that other state or jurisdiction.

Section 171. The General Assembly finds and declares that the amendment of KRS 271B.6-210, 271B.6-230, 271B.7-040, 271B.7-280, and 271B.8-080, as provided for in 2002 Ky. Acts, ch. 102, secs. 10, 11, 15, 18, and 19 respectively, are and were effective as of November 15, 2002.

Section 172. 2006 Ky. Acts ch. 149, sec. 239 is repealed.

Section 173. The following KRS sections are repealed:

274.087 Merger or consolidation.

362.495 Law governing foreign limited partnerships. (Effective until January 1, 2008)

362.497 Registration of foreign limited partnership. (Effective until January 1, 2008)

362.499 Filing of application by foreign limited partnership. (Effective until January 1, 2008)

362.501 Name under which foreign limited partnership must register. (Effective until January 1, 2008)

362.503 Changes and amendment. (Effective until January 1, 2008)

362.505 Cancellation of registration of foreign limited partnership. (Effective until January 1, 2008)

362.507 Registration required for access to courts -- Effects of failure to register. (Effective until January 1, 2008)

362.509 Action by Attorney General to restrain foreign limited partnership from transacting business. (Effective until January 1, 2008)

362.585 Registration of foreign limited liability partnership -- Effect of withdrawal -- Injunctive action by Attorney General. (Effective until January 1, 2008)

HB 348, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.990 is amended to read as follows:

(1) Any party to a marriage prohibited by KRS 402.010 shall be guilty of a Class B misdemeanor. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be guilty of a Class A misdemeanor.

(2) Any person who aids or abets the marriage of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted marriage with any such person shall be guilty of a Class B misdemeanor.

(3) Any authorized person who knowingly solemnizes a marriage prohibited by this chapter shall be guilty of a Class A misdemeanor.

(4) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother, or guardian of an applicant in obtaining a license shall be guilty of a Class D felony.

(5) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be guilty of a Class D felony. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.

(6) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be guilty of a Class A misdemeanor and removed from office by the judgment of the court in which he is convicted.

(7) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be guilty of a Class A misdemeanor.

(8) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be guilty of a Class A misdemeanor, and if he knowingly issues a license for a marriage prohibited by this chapter, he shall be guilty of a Class A misdemeanor.

(9)[~~Any person who violates any of the provisions of KRS 402.090 shall be guilty of a violation.~~

~~(10)~~] Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be guilty of a violation.

(10)[~~(11)~~] Any person failing to make the return required of him by KRS 402.220 shall be guilty of a violation.

Section 2. The following KRS section is repealed:

402.090 Soliciting persons to be married by particular person -- Sharing remuneration -- Solicitation by minister or justice of the peace.

HB 426, AN ACT relating to supersedeas bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.187 is amended to read as follows:

(1) ***In any civil action brought under any legal theory, the amount of a supersedeas bond necessary to stay execution of a judgment granting legal, equitable, or any other relief during the entire course of all appeals or discretionary reviews of the judgment by all appellate courts shall be set in accordance with applicable law, except that the total amount of the supersedeas bonds that are required collectively of all appellants during the appeal of a civil action may not exceed one hundred million dollars ($100,000,000) in the aggregate, regardless of the amount of the judgment that is appealed***[~~If the appellee in a civil action obtains a judgment for punitive or exemplary damages and the appellant seeks a stay of enforcement of the judgment in order to obtain review by an appellate court, the supersedeas bond for the punitive~~

~~damages portion of the judgment on appeal shall not exceed one hundred million dollars ($100,000,000)]~~.

(2) If the appellee proves by a preponderance of the evidence that a party bringing an appeal, for whom the supersedeas bond requirement has been limited, is purposefully dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding ultimate payment of the~~[punitive damages]~~ judgment, the limitation granted under subsection (1) of this section shall be rescinded and ***a court may require the appellant to post a bond in an amount up to***~~[the bond requirement shall be reinstated for]~~ the full amount of the judgment ***pursuant to the Kentucky Rules of Civil Procedure***.

Section 2. Section 1 of this Act shall apply to all civil actions pending on the effective date of this Act.

HB 465, AN ACT relating to the Court of Justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 2000 Ky. Acts ch. 305, sec. 4 is repealed.

The Committee Substitute to **HB 465** is as follows:

HB 465, AN ACT relating to the Court of Justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.580 is amended to read as follows:

(1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:

(a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires ***and who meets the criteria specified in subsection (2) of this section***~~[at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75),]~~ may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation", notwithstanding any provision to the contrary, for all members retiring under any provision of KRS 21.345 to 21.570 or this section, or similar statutes governing the same positions, as defined in KRS 21.400 shall be based on a period of thirty-six (36) months. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21, but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.

1. In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one (1) or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.

2. Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five (5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.

3. Subject to Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.

(b) The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that KRS 21.580 is effective; however, no other provisions of 2000 Ky. Acts ch. 305 shall be considered subject to an inviolable contract of the Commonwealth.

(c) Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age.

(2) *Members seeking entry into the Senior Status Program for Special Judges after the effective date of this Act shall meet each of the following criteria, if applicable:*

(a) The member's total years of judicial service credit and the member's age when combined shall equal or exceed seventy-five (75) years;

(b) A member seeking entry into the program who is under the age of sixty (60) shall have twenty (20) years or more of actual judicial service;

(c) A member seeking entry into the program who is age sixty (60) or over shall have ten (10) years or more of actual judicial service;

(d) If the member is a retiring District Judge, the member shall not have been defeated at the most recent election for a District Court judgeship;

(e) If the member is a retiring Circuit Judge, the member shall not have been defeated at the most recent election for a Circuit Court judgeship;

(f) If the member is a retiring Judge of the Court of Appeals, the member shall not have been defeated at the most recent election for a Court of Appeals seat;

(g) If the member is a retiring Justice of the Supreme Court, the member shall not have been defeated at the most recent election for a Supreme Court seat; and

(h) The member shall have been certified by the Judicial Conduct Commission as meeting the qualifications for the program and as being otherwise fit for continued judicial service.

(3) A member denied certification under subsection (2)(h) of this section may appeal the denial to the Supreme Court, which shall conduct a de novo review of the member's qualifications for the program and fitness for continued judicial service.

(4) No later than thirty (30) days following the end of each fiscal year, the Judicial Retirement System shall provide a written report to the Legislative Research Commission and the Chief Justice of the Kentucky Supreme Court containing:

(a) The number of members who have retired as Senior Status Special Judges since the effective date of this Act;

(b) The amount of compensation and other benefits paid to those Senior Status Special Judges;

(c) The number of days each Senior Status Special Judge has served as a special judge;

(d) The fiscal impact on the Judicial Retirement System and the general fund as a result of the retirement of the Senior Status Special Judges; and

(e) Any other relevant information that may be requested.

(5) The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on the *effective date of this Act*[~~June 24, 2003~~], and who subsequently retires as a Senior Status Special Judge on or before *July 1, 2012*[~~January 31, 2009~~].

Section 2. 2000 Ky. Acts ch. 305, sec. 4 is repealed.

HB 469, AN ACT relating to firearms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 237.020 is amended to read as follows:

(1) Residents of the Commonwealth of Kentucky *who are citizens of the United States* shall have the right to purchase *or otherwise acquire* rifles, shotguns, *handguns, and any other firearms which they are permitted to purchase or otherwise acquire under federal law and the Kentucky Revised Statutes from properly licensed dealers, manufacturers, importers, or collectors, and unlicensed individual persons in Kentucky or in any other state or nation outside of the Commonwealth of Kentucky.*

(2) Residents of states other than the Commonwealth of Kentucky who are citizens of the United States shall have the right to purchase or otherwise acquire rifles, shotguns, handguns, and any other firearms which they are permitted to purchase or otherwise acquire under federal law and the Kentucky Revised Statutes from properly licensed dealers, manufacturers, importers, or collectors and from unlicensed individual persons in the Commonwealth of Kentucky.

(3) Citizens of countries other than the United States shall have the right to purchase or otherwise acquire rifles, shotguns, handguns, and any other firearms which they are permitted to purchase or otherwise acquire under federal law and the Kentucky Revised Statutes from properly licensed dealers, manufacturers, importers, or collectors and from unlicensed individual persons[~~and any other firearms which they are permitted to purchase under federal law from properly licensed dealers, manufacturers, importers, or collectors located in states contiguous to the Commonwealth of Kentucky.~~

~~(2) Residents of states contiguous to the Commonwealth of Kentucky may purchase rifles, shotguns, and any other firearms which they are permitted to purchase under federal law from properly licensed dealers, manufacturers, importers, or~~

~~collectors located~~} in the Commonwealth of Kentucky.

(4)[~~(3)~~} All such sales shall conform to the requirements of federal law, the Kentucky Revised Statutes, applicable local ordinances, and the law of the purchaser's state.

HJR 5, A JOINT RESOLUTION naming the judicial center in Henderson County the "Gross Clay Lindsay Henderson County Judicial Center."

WHEREAS, Representative Gross Lindsay began serving in the General Assembly in 1970, after being elected to represent the 11th House District. Quickly earning a reputation for having a keen understanding of Kentucky's statutes and legal system, he became a moving force behind the creation of our current criminal code and judicial system. In 1972, he was appointed to the Kentucky Penal Code Study Commission, and during the 1972 Regular Session of the General Assembly Representative Lindsay was the primary sponsor of legislation that updated Kentucky's penal code. He was also instrumental in the passage of a proposed constitutional amendment that, once ratified by the voters, authorized the modernization of our court system. He served on the Interim Special Committee on the Implementation of the Judicial Article, and helped establish the modern four-tier court system, which has been a model for the nation; and

WHEREAS, Representative Lindsay received several gubernatorial appointments, including appointments to the Governor's Special Committee on Off-Track Betting in 1974; the Special Advisory Commission on County Government in 1976; the County Statutes Revision Commission in 1977; and the Local Government Statute Revision Commission in 1978. Although he gave up his seat in the House of Representatives in 1980, Representative Lindsay remained involved with the legislative branch, accepting a position as general counsel for the Majority Floor Leader in 1980, and serving as counsel for the Legislative Research Commission in the landmark case *LRC v. Brown*, which led to a ruling of the Kentucky Supreme Court that more clearly defined the separation of powers between the executive and legislative branches of government. He was also an active member of the special Commission on Constitutional Review, a panel that, in 1987, called for an overhaul of the Kentucky Constitution, which was nearly a century old at that time; and

WHEREAS, in 1993, Gross Lindsay returned to the House of Representatives, where he has served on a number of committees. But, throughout his legislative career, Representative Lindsay has probably left his biggest mark as chair of the House Judiciary Committee. Known for his firm leadership style, he not only has shepherded through legislation that has improved our criminal laws and justice system, but has also had the courage to use his chairmanship to protect citizens of the Commonwealth from legislation that he believes might cause inadvertent harm. He is revered as the "unofficial parliamentarian" of the House of Representatives, as leaders and members often turn to him for advice on procedural questions, and he will always be remembered for his perfection of the "long" clincher motion; and

WHEREAS, Representative Lindsay served for many years as Chairman of the Court Facilities Standards Committee of the Court of Justice, which is a ten-member body composed of representatives from the executive, judicial, and legislative branches of government, along with a county official, that reviews design plans, cost estimates, and financing proposals for new court facilities, renovation, and maintenance of the facilities of the Kentucky Court of Justice; and

WHEREAS, Representative Lindsay served as a member of the Commission on Judicial Education, which consists of judges, law professors, and legislators and gives guidance for the annual judicial education conference and other required continuing judicial education programs; and

WHEREAS, Representative Lindsay was instrumental in obtaining approval for the construction of and funding for the Henderson Judicial Center; and

WHEREAS, Representative Lindsay was also a leader in obtaining funding and the passage of legislation for other local projects, including the Henderson Community College;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Henderson County Judicial center is hereby named the "Gross Clay Lindsay Henderson County Judicial Center."

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Honorable Gross Clay Lindsay, P.O. Box 19, Henderson, Kentucky 42419-0019.

Representative Adkins moved to suspend the rules to allow the House to recess. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 305, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 305**. Agreed.

Representative Gray moved that **HB 305**, by way of Committee Substitute, be passed.

Representative DeCesare moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 305**.

Representative Wilkey inquired whether Floor Amendment No. 6 is germane.

The Speaker ruled that Floor Amendment No. 6 is not germane.

Representative Montell moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 305**.

Representative Wilkey inquired whether Floor Amendment No. 1 is germane.

The Speaker ruled that Floor Amendment No. 1 is not germane to either the title or substance of **HB 305**.

Representative Gray moved that **HB 305**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 10**. (See February 21, 2007, roll call on **HB 305** - Appendix.)

HB 305, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 305**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 113, 14, 100, 126, 139,** and **144.** (4:23 p.m.)

Orders of the Day (Continued)

SJR 16 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved that **SJR 16** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 21, 2007, roll call on **SJR 16** - Appendix.)

SJR 16 was adopted.

Representative Meeks moved that the vote by which **SJR 16** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the posting requirement be waived on the following: **HB 543, 442, 207, HJR 130, HB 327, 354, 462, HCR 141, 151.** Agreed.

Representative Adkins moved that the rules be suspended and that **HB 362** be recommitted to the Committee on Health and Welfare. Agreed.

The Speaker Pro Tem assumed the chair.

Representative Damron moved that the rules be suspended to act on a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 158**:

HR 158, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sherman Dean, Jr.

WHEREAS, Sherman Dean, Jr. was born September 2, 1923, to the late Sherman and Margaret Griffing Dean, and passed from this life February 17, 2007, at the age of 83 years. Born and raised on the farm he would later name the Rolling Hills Simmental Farm on Sugar Creek Pike, he would eventually develop a love for farming, and breeding, raising, and showing simmental cattle; and

WHEREAS, as a child, Mr. Dean attended Roberts Chapel, and received a pin for attending Sunday school for 13 years without missing a Sunday, and later joined the Little Hickman Christian Church. During the 1960s, he served on the Jessamine County School Board; was a member of the Jessamine County Fair Board; was a partner in the McClary and Dean Insurance Agency; and was a member of the Honorable Order of Kentucky Colonels; and

WHEREAS, Mr. Dean served as Jessamine County Judge/Executive from 1978 to 1990, and during that time, was instrumental in obtaining the necessary federal grants for the construction of the Nicholasville by-pass. He was a strong supporter of the Jessamine County Fire Department, Little League baseball, and was a key advocate in establishing the baseball field. The Jessamine Fiscal Court recently honored him by naming one of the county buildings the Wilson-Dean Building; and

WHEREAS, Sherman Dean, Jr. was preceded in death by a step-daughter, Audrey Orange; a son-in-law, Marvin Canter; and a brother-in-law, Lyman Hager. He is survived by his wife, Elizabeth "Litty" Stipe Young Dean; step-children, Teresa Canter and Linda Burton, and her husband, Mark; a son-in-law, Freddie Orange, and his wife, Sherie; a sister, Dorothy Hager; step-grandchildren, Rick Orange, Katie Canter Barnes, and her husband, Brandon, Will Canter, Hannah Burton, and Tyler Burton; a step-great-granddaughter, Audrey Claire Orange; nephews, Lyman Hager, Jr., and his wife, Jackie, and Gary Dean Hager, and his wife Jan; two great-nephews, Benjamin Hager and Jarrod Hager; and a great-niece, Caroline Hager;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of loss upon the passing of Sherman Dean, Jr., and extends its heartfelt condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sherman Dean, Jr.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Elizabeth "Litty" Dean, 108 Muirfield Drive, Nicholasville, Kentucky 40356-8881.

There being no objection, **HR 158** was adopted.

Representative Rollins moved that the rules be suspended to act on a Resolution. Agreed.

Representative Rollins moved the adoption of the following **HR 56**:

HR 56, A RESOLUTION adjourning the House of Representatives in memory and honor of William Frank Baker.

WHEREAS, William Frank Baker was born on March 17, 1924, in Versailles, Kentucky; and

WHEREAS, Mr. Baker graduated from Millersburg Military Institute, the first step in a lifetime of military service to his community and his country. Mr. Baker served in the United States Navy between 1943 and 1945, which service included six months in China. He rose to the rank of Commander in the Naval Reserves, directing affairs at the naval unit in Lexington, Kentucky. Mr. Baker also served as an administrative assistant at a Naval Weapons Station in Virginia during a military career that spanned 30 years; and

WHEREAS, Mr. Baker received his bachelor's degree from the University of South Carolina in 1945, and a master's degree in psychology from the University of Kentucky in 1950. Mr. Baker was the first member of his family to become a college graduate, and later served as a vocational guidance counselor at the University of Minnesota and Florida State University, encouraging future generations to pursue higher education and maximize their potential; and

WHEREAS, Mr. Baker married Jean Hamilton in 1950, and was her devoted husband until her death in 2002. The couple were committed to their family of three children, Jeannette Sellers, Biff Baker, and Duncan Baker; and nine grandchildren, Mark Sellers, Jennifer Sellers, Bill Baker, Ashley Baker, Ben Baker, Branden Gross, Franklin Baker, Jessica Baker, and Kelly Baker; and

WHEREAS, Mr. Baker returned to Kentucky following the death of his mother in an automobile accident that severely injured his father, and lived out his days in his native Commonwealth. Upon his return to Kentucky, Mr. Baker was vice president and plant manager at Woodford Manufacturing for five years, during which he helped develop a similar facility in Puerto Rico. Mr. Baker was also a farmer for several years; and

WHEREAS, Mr. Baker also enjoyed public life and service to his community, serving on both the Woodford County Board of Education and the Versailles-Midway-Woodford County Planning and Zoning Commission; and

WHEREAS, Mr. Baker departed this life on January 4, 2007, and the entire community joins his family in mourning his loss;

NOW THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of William Frank Baker and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of William Frank Baker.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Biff Baker, 156 Montgomery Avenue, Versailles, Kentucky 40383.

There being no objection, **HR 56** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 472, 489, 496, 446**

Floor Amendments

Floor Amendment No. 1 to **HB 1**, by Representative Nelson:

HB 1, On page 65, delete lines 20-27;
On page 66, delete lines 1-27;
On page 67, delete lines 1-27;
On page 68, delete lines 1-27;
On page 69, delete lines 1-12; and
Insert the following in lieu thereof:

" ***001.***	***Bell County Board of Education - Projects***		
	Restricted Funds	***25,000***	***25,000***
002.	***Bell County Fiscal Court - Homeless Shelter - Operations and/or Supplies***		
	Restricted Funds	***-0-***	***10,000***
003.	***Bell County Fiscal Court - Bell County Industrial Foundation - Completion of Infrastructure***		
	Restricted Funds	***125,000***	***125,000***
004.	***Bell County Fiscal Court - Bell County Little League - Equipment and/or Field Improvements***		
	Restricted Funds	***10,000***	***-0-***
005.	***Bell County Fiscal Court - Bell County Public Library - Furnishing and/or Equipment***		
	Restricted Funds	***40,000***	***-0-***
006.	***Bell County Fiscal Court - Bell County Rescue Squad - Equipment***		
	Restricted Funds	***-0-***	***10,000***
007.	***Bell County Fiscal Court - Bell County Senior Citizens - Supplies***		
	Restricted Funds	***10,000***	***-0-***
008.	***Bell County Fiscal Court - Bell County Sheriff Department - Vehicles, Equipment, and/or SOS Officer***		
	Restricted Funds	***100,000***	***50,000***
009.	***Bell County Fiscal Court - County Clerk - Equipment***		
	Restricted Funds	***5,000***	***-0-***
010.	***Bell County Fiscal Court - Frakes Senior***		

	Citizens - Supplies		
	Restricted Funds	*5,000*	*-0-*
011.	*City of Middlesboro - Little League and Tee Ball - Equipment and/or Field Improvements*		
	Restricted Funds	*10,000*	*-0-*
012.	*Bell County Fiscal Court - Projects and/or Equipment*		
	Restricted Funds	*500,000*	*580,000*
013.	*Bell County Fiscal Court - Red Bird Senior Citizens - Supplies*		
	Restricted Funds	*5,000*	*-0-*
014.	*Bell County Fiscal Court - Lighthouse Mission - Operations and/or Equipment*		
	Restricted Funds	*20,000*	*20,000*
015.	*Bell County Fiscal Court - New Ambulances*		
	Restricted Funds	*80,000*	*80,000*
016.	*City of Middlesboro - Projects and/or Turn Out Gear for Fire Department, Police Department Equipment*		
	Restricted Funds	*75,000*	*25,000*
017.	*City of Pineville - Projects and/or Equipment*		
	Restricted Funds	*30,000*	*20,000*
018.	*Middlesboro Board of Education - Projects*		
	Restricted Funds	*25,000*	*25,000*
019.	*Pineville Board of Education - Projects*		
	Restricted Funds	*25,000*	*25,000*
020.	*Bell County Fiscal Court - PVA - Equipment*		
	Restricted Funds	*5,000*	*-0-*
021.	*Bell County Fiscal Court - Dewey Guy Post - Expense for Military Funerals*		
	Restricted Funds	*-0-*	*5,000*
022.	*Bell County Fiscal Court - Health Department - Supplies*		
	Restricted Funds	*10,000*	*-0-*
023.	*Bell County Fiscal Court - Frakes Volunteer Fire Department - Equipment*		
	Restricted Funds	*10,000*	*-0-*
024.	*Bell County Fiscal Court - Veterans' Park - New Restrooms*		
	Restricted Funds	*5,000*	*-0-*".

Floor Amendment No. 2 to the Committee Substitute to **HB 1**, by Representative Nelson:

HB 1, On page 63, delete lines 26-27;
On page 64, delete lines 1-27;
On page 65, delete lines 1-27;
On page 66, delete lines 1-27;
On page 67, delete lines 1-18; and
Insert the following in lieu thereof:

" *001.*	*Bell County Board of Education - Projects*		
	Restricted Funds	*25,000*	*25,000*
002.	*Bell County Fiscal Court - Homeless Shelter -*		

	Operations and/or Supplies		
	Restricted Funds	*-0-*	*10,000*
003.	*Bell County Fiscal Court - Bell County Industrial Foundation - Completion of Infrastructure*		
	Restricted Funds	*125,000*	*125,000*
004.	*Bell County Fiscal Court - Bell County Little League - Equipment and/or Field Improvements*		
	Restricted Funds	*10,000*	*-0-*
005.	*Bell County Fiscal Court - Bell County Public Library - Furnishing and/or Equipment*		
	Restricted Funds	*40,000*	*-0-*
006.	*Bell County Fiscal Court - Bell County Rescue Squad - Equipment*		
	Restricted Funds	*-0-*	*10,000*
007.	*Bell County Fiscal Court - Bell County Senior Citizens - Supplies*		
	Restricted Funds	*10,000*	*-0-*
008.	*Bell County Fiscal Court - Bell County Sheriff Department - Vehicles, Equipment, and/or SOS Officer*		
	Restricted Funds	*100,000*	*50,000*
009.	*Bell County Fiscal Court - County Clerk - Equipment*		
	Restricted Funds	*5,000*	*-0-*
010.	*Bell County Fiscal Court - Frakes Senior Citizens - Supplies*		
	Restricted Funds	*5,000*	*-0-*
011.	*City of Middlesboro - Little League and Tee Ball - Equipment and/or Field Improvements*		
	Restricted Funds	*10,000*	*-0-*
012.	*Bell County Fiscal Court - Projects and/or Equipment*		
	Restricted Funds	*500,000*	*580,000*
013.	*Bell County Fiscal Court - Red Bird Senior Citizens - Supplies*		
	Restricted Funds	*5,000*	*-0-*
014.	*Bell County Fiscal Court - Lighthouse Mission - Operations and/or Equipment*		
	Restricted Funds	*20,000*	*20,000*
015.	*Bell County Fiscal Court - New Ambulances*		
	Restricted Funds	*80,000*	*80,000*
016.	*City of Middlesboro - Projects and/or Turn Out Gear for Fire Department, Police Department Equipment*		
	Restricted Funds	*75,000*	*25,000*
017.	*City of Pineville - Projects and/or Equipment*		
	Restricted Funds	*30,000*	*20,000*
018.	*Middlesboro Board of Education - Projects*		
	Restricted Funds	*25,000*	*25,000*
019.	*Pineville Board of Education - Projects*		
	Restricted Funds	*25,000*	*25,000*
020.	*Bell County Fiscal Court - PVA - Equipment*		
	Restricted Funds	*5,000*	*-0-*

021.	***Bell County Fiscal Court - Dewey Guy Post - Expense for Military Funerals***		
	Restricted Funds	***-0-***	***5,000***
022.	***Bell County Fiscal Court - Health Department - Supplies***		
	Restricted Funds	***10,000***	***-0-***
023.	***Bell County Fiscal Court - Frakes Volunteer Fire Department - Equipment***		
	Restricted Funds	***10,000***	***-0-***
024.	***Bell County Fiscal Court - Veterans' Park - New Restrooms***		
	Restricted Funds	***5,000***	***-0-***".

Floor Amendment No. 1 to the Committee Substitute to **HB 405**, by Representative Owens:

HB 405, On page 3, line 14, after the first "is" by deleting the rest of the line in its entirety; and

On page 3, line 15, by deleting "***spouse, parent, brother, sister, or child of the voter and is***".

Floor Amendment No. 1 to the Committee Substitute to **HB 329**, by Representative Vincent:

HB 329, On page 2, beginning on line 21, after the "(6)", by deleting the remainder of line 21 and all of lines 22 to 27 in their entirety and inserting the following in lieu thereof:

" ***A certified peace officer as defined in KRS 15.310 may proceed pursuant to subsection (1) to (3) of this section, while operating an official vehicle equipped with emergency lights and siren, without giving the warning required under subsection (5) of this section, if the peace officer:***

(a) Is responding to a situation where use of the vehicle's warning signals would increase the danger involved in apprehending a suspected violator, serve to unnecessarily alert a suspected violator, or pose a threat to threatened victims of crime;

(b) Exercises due care in responding without warning signals, and shall, if practical, seek approval from a superior officer prior to proceeding; and

(c) Proceeds with extreme caution for the safety of all other persons using the highway."; and

On page 3, by deleting lines 1 to 4 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 284**, by Representative Vincent:

HB 284, On page 3, beginning on line 12, after the word "***be***", by deleting the remainder of line 12 and all of lines 13 to 18 in their entirety and inserting in lieu thereof, "***prima facie exculpatory evidence in any court in any jurisdiction in this Commonwealth and shall preclude further prosecution of an alleged violation of this section.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 108**, by Representative Hoffman:

HB 108, On page 1, line 5, after the word "***Historic***" by inserting the word "***drylaid***", and

On page 1, line 7, by deleting "***Mortared***" and by inserting "***Historic mortared***", and

On page 1, line 9, after the word "***Nonhistoric***" by inserting the word "***drylaid***", and

On page 1, line 18, after the word "***historic***" by inserting the word "***drylaid***", and

On page 1, line 19, after the word "***and***" by inserting the word "***historic***", and

On page 2, line 2, after the word "***Act***" and befoer the "***.***", by inserting "***, and in no case shall the funds be used for executive agency administrative costs***", and

On page 2, line 8, after the word "***historic***" by inserting the word "***drylaid***", and

On page 2, line 8, before the word "***mortared***" by inserting the word "***historic***", and

On page 2, line 9, by placing a "***.***" after the first occurence of the word "***fences***" and deleting the rest of the text on that line, and

On page 2, after line 15 and before line 16, by inserting the following:

"***(3) No funds from the program established in this section shall be utilized for restoration projects which utilize stone***

removed, harvested, or taken from other historic stone structures without prior approval of the Kentucky Heritage Council in consultation with the Dry Stone Conservancy.", and

On page 3, line 11, after the word "***historic***" by inserting "***drylaid and historic mortared***".

Floor Amendment No. 1 to the Committee Substitute to **HB 86**, by Representative Palumbo:

HB 86, On page 13, after line 25, insert the following:

"Section 11. KRS 324A.040 is amended to read as follows:

(1) All applications for certification or licensure shall be made in writing to the board and shall specify the classification of the certificate or license being applied for by the applicant, and shall contain all information required by the board.

(2) Applicants for certification or licensure shall:

(a) Successfully pass the examination required by the board;[~~ and~~]

(b) ***Submit to a national criminal history check through the Federal Bureau of Investigation. The board shall request the criminal history check and shall provide the applicant's fingerprints to the Kentucky State Police for submission to the Federal Bureau of Investigation to search for information regarding the applicant in the National Crime Information Center or its successor entity. The applicant shall:***

1. Authorize release of the results of the criminal history check to the board;

2. Pay the actual cost of the fingerprinting and criminal history check, if any; and

3. Complete the criminal history check within the ninety (90) calendar days prior to the date the license application is received by the board; and

(c) Meet other requirements established by this chapter and administrative regulations of the board.

(3) The examination shall be given at times and places within the state as the board shall prescribe; provided, however, the examination shall be given at least two (2) times during each calendar year. Notice of passing or failing the examination shall be provided to each applicant.".

Floor Amendment No. 2 to **HB 86**, by Representative Palumbo:

HB 86, On page 15, after line 27, insert the following:

"Section 13. KRS 324A.040 is amended to read as follows:

(1) All applications for certification or licensure shall be made in writing to the board and shall specify the classification of the certificate or license being applied for by the applicant, and shall contain all information required by the board.

(2) Applicants for certification or licensure shall:

(a) Successfully pass the examination required by the board;[~~ and~~]

(b) ***Submit to a national criminal history check through the Federal Bureau of Investigation. The board shall request the criminal history check and shall provide the applicant's fingerprints to the Kentucky State Police for submission to the Federal Bureau of Investigation to search for information regarding the applicant in the National Crime Information Center or its successor entity. The applicant shall:***

1. Authorize release of the results of the criminal history check to the board;

2. Pay the actual cost of the fingerprinting and criminal history check, if any; and

3. Complete the criminal history check within the ninety (90) calendar days prior to the date the license application is received by the board; and

(c) Meet other requirements established by this chapter and administrative regulations of the board.

(3) The examination shall be given at times and places within the state as the board shall prescribe; provided, however, the examination shall be given at least two (2) times during each calendar year. Notice of passing or failing the examination shall be provided to each applicant.".

Floor Amendment No. 3 Title to **HB 86**, by Representative Palumbo:

HB 86, Amend the title to read "AN ACT relating to real estate professionals.".

Floor Amendment No. 3 to the Committee Substitute to **HB 1**, by Representative Crimm:

HB 1, On page 26, line 10, by deleting "***the Southern Association of Colleges and Schools***" and insert "***a regional accrediting association as defined in KRS 164.740***".

Floor Amendment No. 1 to **HB 196**, by Representative Marzian:

HB 196, On page 4, line 1, remove the opening bracket before the punctuation mark "," and delete the subsequent strikethroughs.

On page 4, line 2, remove the closing bracket after the punctuation mark "," and delete the intervening strikethroughs.

On page 4, line 1, after "within" insert "***ninety (90)***" and bracket and strike through "thirty (30)".

Floor Amendment No. 1 to **HB 83**, by Representative Vincent:

HB 83, On page 1, line 4, by deleting "***that is a bank or trust company***"; and

On page 1, line 11, by deleting "the "fiduciary" and inserting the following in lieu thereof: "***a***[~~the~~] fiduciary***, including a testamentary trustee,***"; and

On page 1, line 23, by deleting "***that are banks or trust companies***".

Floor Amendment No. 2 to the Committee Substitute to **HB 214**, by Representative Riggs:

HB 214, On page 1, line 11, following "15.410 to 15.510" to insert "***and 15.520***"; and

On page 3, lines 21 to 23, to delete the same; and

On page 3, line 24, to delete "***4.***" and to insert in lieu thereof "***3.***"; and

On page 3, line 24, following "***Enforcement officers***" to insert "***and mounted patrol officers employed by the Kentucky Horse Park***"; and

On page 4, line 3, to delete "***5.***" and to insert in lieu thereof "***4.***"; and

On page 4. line 10, to delete "***6.***" and to insert in lieu thereof "***5.***"; and

On page 5, line 23, to delete "***and***"; and

On page 5, line 24, following "***officers;***" to insert "***and***"; and

On page 5, between lines 24 and 25, to insert the following:

"***g. Mounted patrol officers employed by the Kentucky Horse Park;***"; and

On page 16, below line 15, to insert the following:

"Section 15. KRS 15.520 is amended to read as follows:

(1) In order to establish a minimum system of professional conduct of the police officers of [~~local~~] units of government of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the [~~local~~] unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:

1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;

2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;

3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;

4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension;

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;

(e) Any charge involving violation of any ~~[local]~~ unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the ~~[local]~~ unit of government or the police officer so charged, until final disposition of the charges;

(g) No police officer as a condition of continued employment by the ~~[local]~~ unit of government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and

(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;
2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than seventy-two (72) hours prior to the time of any hearing;
3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;
4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;
5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;
6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;
7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;
8. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and
9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.

(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the ~~[local]~~ unit of government may be located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.

(3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance, or working agreement.

(4) The provisions of this section shall apply only to police officers of ~~[local]~~ units of government who receive funds pursuant

to KRS 15.410 through 15.992.".

Floor Amendment No. 1 to **HB 334**, by Representative Vincent:

HB 334, On page 143, line 17, by deleting "***domestic***".

Floor Amendment No. 2 to **HB 334**, by Representative Vincent:

HB 334, On page 189, line 27, and continuing through page 190, line 3, by deleting same and inserting the following in lieu thereof:

"(i) Conducting an isolated transaction that is completed within thirty (30) days and is not one in the course of similar transactions of a like manner; and

(j) Transacting business in interstate commerce.".

Floor Amendment No. 1 to **HB 348**, by Representative Crenshaw:

HB 348, On page 1, before line 1, insert the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 402 IS CREATED TO READ AS FOLLOWS:

Any person who is authorized to solemnize marriage may publicly advertise his or her services by mail, card, newspaper, pamphlet, radio, television, Internet, or any other medium."; and

By renumbering subsequent sections accordingly.

Floor Amendment No. 1 to **HJR 5**, by Representative Rasche:

HJR 5, On page 2, line 1, and page 3, line 1, by deleting same and inserting in lieu thereof the following:

"Section 1. The Henderson County Judicial Center is hereby named "Gross's House of Justice.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 7, Representatives Nesler, Denham, Adams, Keene, Glenn, Arnold, Yonts, Edmonds, Collins, Stacy, Graham, McKee, Thompson, Henderson, Rand, Wayne, Westrom, A. Smith, L. Belcher, Nelson, Palumbo, Meeks, Richards, and Hoffman

HB 159, Representative Comer

HB 167, Representatives Butler, Gray, and Ballard

HB 207, Representatives Embry, Sims, and Jenkins

HB 210, Representative Cherry

HB 224, Representative Siler

HB 237, Representatives Stewart, Butler, Turner, Comer, and Draud

HB 249, Representative Comer

HB 278, Representatives Horlander, Marzian, Owens, Wayne, Keene, Burch, Miller, and Stacy

HB 317, Representative Comer

HB 342, Representatives Floyd and Butler

HB 417, Representative Henley

HB 442, Representative Gooch

HB 446, Representative Nesler

HB 462, Representative Palumbo

HB 466, Representative DeWeese

HB 476, Representative Osborne

HB 503, Representative Marzian

HB 505, Representatives Osborne, Crimm, Koenig, Wuchner, Bratcher, Floyd, Rudy, and Farmer

HB 506, Representative Osborne

HB 535, Representative Jenkins

HCR 79, Representatives Jenkins and Marzian

HCR 148, Representative Montell

HCR 160, Representative Hall

Announcements

Majority Caucus, upon recess, Supreme Court Chambers

Minority Caucus, upon recess, Room 216

Committee on Tourism Development and Energy, 10:00 a.m., Thursday, February 22, 2007

Committee on Natural Resources and Environment, 8:30 a.m., Thursday, February 22, 2007, Room 129

Committee on Economic Development, 8:00 a.m., Thursday, February 22, 2007, Room 171

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Thursday, February 22, 2007.

The motion that the House adjourn until 2:00 p.m., Thursday, February 22, 2007, was adopted by voice vote.

THURSDAY, FEBRUARY 22, 2007

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Representative Adams.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of February 21, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Henderson moved that he be recorded as voting "Yea" on **HB 212**. Agreed.

Representative Marzian moved that she be recorded as voting "Yea" on **HB 258, 332, 46, 6, 326, 201, 82, 370, 125, 215,** and **HCR 19**. Agreed.

Representative Wuchner moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Senate Message

Announcing passage of **SB 23, 82, 95, 96, 104, 125, 145, 155,** and **187**. (2:07 p.m.)

Representative Wuchner moved the adoption of the following **Legislative Citation No. 42.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Immaculate Heart of Mary School in Burlington, Kentucky, upon having been named a 2006 No Child Left Behind-Blue Ribbon School of Excellence by the U.S. Department of Education. Nominated by the Council for American Private Education and one of only fifty Catholic elementary schools nationwide to receive this designation in 2006, Immaculate Heart of Mary School was selected for demonstrating practices and programs that deliver the highest quality education to all the children served by this outstanding institution. The members of this distinguished body are delighted to join with Representative Addia K. Wuchner in expressing sincere gratitude to the administrators, faculty and students of Immaculate Heart of Mary School, some of whom have traveled to Frankfort today to witness this day's activities during the 2007 Regular Session of the Kentucky General Assembly, for the sterling tradition of excellence they have established, which serves as a model for others to follow, and in extending very best wishes for continued landmarks of success. Done in Frankfort, Kentucky, this twenty-second day of February, in the year two thousand and seven.

Legislative Citation No. 42 was adopted without objection.

The children from Immaculate Heart of Mary in School Burlington, Kentucky performed a song.

Representative Richards moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Richards moved the adoption of the following **Legislative Citation No. 46.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Bowling Green Special Olympics Girls Basketball Team who will represent Team USA in the 2007 World Special Olympics Summer Games to be held October 2-11 in Shanghai, China. The team members from Bowling Green/Warren County, who have played together since the 2005-2006 season when they won both a regional and the Special Olympics Kentucky state championship, were then chosen from among the state winners in the nation as one of the two teams representing Team USA in this remarkable international competition. Inasmuch as this stellar team, comprised of Natalie Williams, Glenda Albright, Sheila Crowson, Kelly King, Taylor

Thomas, Kay Gregory, Crystal Maston, Ashly Orange, Mary Wilcome and Tasha Harrison, under the able and dedicated tutelage of coaches, Jenn Siebold, Derek Shadoan and Brent Belcher, has indeed reached a superior level of skill in the sport of basketball, the members of this distinguished body are delighted to join Speaker Jody Richards in applauding the dedication and hard work that has been put forth by the team, its members, coaches and supporters, and in extending warmest wishes to this laudable group of Kentucky athletes as they represent the United States in this challenging competition. Done in Frankfort, Kentucky, this twenty-second day of February in the year two thousand and seven.

Legislative Citation No. 46 was adopted without objection.

Representative Adkins moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Adkins moved the adoption of the following **Legislative Citation No. 43**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Christian Appalachian Project and welcomes the esteemed representatives of this interdenominational, non-profit Christian organization to the House Chamber during the 2007 Regular Session of the Kentucky General Assembly as the members of this honorable body recognize the tremendous contributions the Christian Appalachian Project has made since its inception on behalf of the citizens of Appalachia by providing physical, spiritual and emotional support through a wide variety of programs and services. Founded by Father Ralph W. Beiting, whose visionary efforts have now grown into the 15th largest human services charity in the eastern half of the United States, CAP has served more than 27,000 eastern Kentuckians in the last fiscal year and seen its gift-in-kind program, Operation Sharing, provide assistance in all thirteen Appalachian states, reaching over one million people. Providing outreach, respite, housing, counseling, disability, elderly, prescription assistance, child and family development center, youth and teen, adult education and spouse abuse and substance abuse center services, the efforts of the Christian Appalachian Project have had a profound impact on the on-going endeavor to provide the citizens of this region with the goods, tools and services needed to ensure that their basic needs are met and their potential to help themselves can be realized. For their efforts to demonstrate the meaning of human stewardship, the members of this honorable body are honored to join with Representative Rocky Adkins in extending sincere expressions of gratitude to the Christian Appalachian Project and their representatives, CAP President and CEO Bill Mills; CAP Board Chairman and unparalleled Volunteer Jerry O'Daniel; and Volunteers Anita Rayner and Heather Ganz, who have joined us today as welcome guests. Done in Frankfort, Kentucky, this twenty-second day of February, in the year two thousand and seven.

Legislative Citation No. 43 was adopted without objection.

Andrea Reynolds, Miss Black Kentucky, guest of Representative Meeks, performed a song.

Representative S. Lee moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative S. Lee moved the adoption of the following **Legislative Citation No. 44**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of Gracie Lee Boswell Black as she prepares to celebrate her upcoming 90th Birthday The entire membership is delighted to join Representative Stan Lee in commending this highly-regarded and cherished member of the Frankfort community whose life will be celebrated by her family and close friends at a reception to be held in her honor at Buck Run Baptist Church, where she is one of its most senior members. Born to Merritt Alonzo Boswell and Viviva Taylor, on May 18, 1917, in Mackville, Washington County, Kentucky, as the fifth of thirteen children, "Mama Grace" has lived a life devoted to her family, the church communities and the greater community. The wife of Willie Woodrow "Bill" Black, with whom she raised her cherished daughter, Barbara Jean, the wife of Glen Allen Black, she is the devoted grandmother of Glenna Loraine Bottoms, Sheila Dawn Bottoms Gerkin, Billie Casey Bottoms Hamblen and Melissa Jean Bottoms Bodie; the great-grandmother of Samantha Lee Bottoms Claridy, Joshua Allen Peffer, Whitney Nicole Hamblen, Rachael Elizabeth Hamblen and Zachary Ryan Peffer; the great-great-grandmother of Claudia Makayla Lee Cook; the aunt of former Representative Tony Curtsinger and the great-aunt by marriage of Representative Stan Lee. Inasmuch as Gracie Lee Boswell Black has served as an example of the rewards of hard work, faith and good deeds and has consistently given of her time and talents to benefit others, this distinguished body hereby extends sincere expressions of gratitude for her many and generous contributions to the community and warmest birthday greetings as she prepares to celebrate her 90th birthday with loving friends and family. Done in Frankfort, Kentucky, this twenty-second day of February, in the year two thousand and seven.

Legislative Citation No. 44 was adopted without objection.

Representative Koenig moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Koenig moved the adoption of the following **Legislative Citation No. 45**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and welcomes the administration and employees of the Erlanger Emergency Medical Services to the House Chambers during a day in the 2007 Regular Session of the Kentucky General Assembly and recognizes the members of this exceptional organization upon recently being named the well-deserving recipients of a 2006 Gold Award for Municipal Excellence in the Population Category Under 50,000 by the National League of Cities in recognition of their remarkable efforts to provide the citizens of Erlanger, Kentucky, and the surrounding communities with affordable Advanced Life Support through a Tiered Advanced Life Support System. Inasmuch as the members and administrators of this extraordinary public service organization have provided Basic Life Support for the residents of Erlanger, Kentucky, since 1970 and continue to demonstrate a profound dedication to ensure that this community is equipped with the most advanced emergency medical services available, the members of this august body are pleased to join Representative Adam Koenig in paying tribute to all those associated with the Erlanger EMS on this auspicious occasion and in extending best wishes for their safety and success as they continue to meet the phenomenal challenges of their vital tasks within the community. Done in Frankfort, Kentucky, this twenty-second day of February, in the year two thousand and seven.

Legislative Citation No. 45 was adopted without objection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 541, 560, 566**

Banking and Insurance: **HB 571**

Economic Development: **HB 530**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 542**

Health and Welfare: **HCR 163, SB 105, 152**

Judiciary: **HB 548**

Licensing and Occupations: **HB 553, SB 13, 29**

Local Government: **HB 572, HCR 155**

State Government: **HB 545**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 550, SB 159**

Health and Welfare: **HB 383, HJR 137, 144**

Education: **HCR 154, HB 471**

Report of Committees

The Committee on Economic Development reported **HB 313, HB 460,** and **HB 468** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 313, AN ACT relating to the development of primary care centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

It is the intent of Sections 1 to 6 of this Act to provide financial assistance to licensed, nonprofit, primary care centers that are seeking to expand, renovate, or relocate into medically underserved areas, medically underserved populations, and health professional shortage areas as identified by the United States Department of Health and Human Services. Priority for financial assistance shall be given to primary care centers that are seeking to expand existing facilities or to obtain new health care equipment or replace outdated health care equipment.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The following words and terms as used in Sections 1 to 6 of this Act, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Agreement" means any lending agreement made pursuant to Sections 3 and 4 of this Act between the authority and an eligible primary care centers;

(2) "Authority" means the Kentucky Economic Development Finance Authority;

(3) "Commonwealth" means the Commonwealth of Kentucky;

(4) "Eligible primary care center" means a primary care center that:

(a) Is licensed through the provisions of KRS Chapter 216B;

(b) Is operated by a nonprofit corporation with nonprofit designation pursuant to Section 501(c) of the Internal Revenue Code;

(c) Serves a county designated as a medically underserved area, medically underserved population, or a health professional shortage area pursuant to federal law; and

(d) Is designated as a priority area in the Statewide Strategic Plan recognized by the United States Department of Health and Human Service's Bureau for Primary Health Care.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority may receive appropriations, borrow money, or issue bonds or notes in accordance with KRS 154.10-035 and other provisions of this chapter appertaining, subject to KRS 42.420, for the purpose of establishing a special revolving loan program to provide capital financing to eligible primary care centers.

(2) Moneys in the revolving loan program shall be used for projects by eligible primary care centers, as defined in Section 2 of this Act, which may include:

(a) The acquisition of ownership in any real estate by an eligible primary care center for the expansion, rehabilitation, renovation, or construction of facilities by an eligible primary care center; and

(b) The rehabilitation, replacement, or purchase of health care equipment necessary or convenient to equip and furnish an eligible primary care center.

(3) Any project funding shall be on the terms and conditions the authority, in its sole discretion, determines to be reasonable, appropriate, and consistent with the purpose and objects of the authority and this chapter, which may include, but not be limited to, the pledging of adequate security.

(4) The authority shall have the powers necessary to carry out the purposes of Sections 1 to 6 of this Act, including but not limited to the power to:

(a) Make and enter into agreements and condition all loans from the revolving loan fund;

(b) Employ fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of loan agreements and documents. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan under this program directly to the person providing consultation, advisory, legal, or other services; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees and charges.

(5) The authority shall give priority consideration to primary care projects being undertaken by existing eligible primary care centers that are seeking to expand, renovate, or relocate into medically underserved or health professional shortage areas. The authority shall utilize the most recent designations of medically underserved areas, medically underserved populations, and health professional shortage areas published by the United States Department of Health and Human Services.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall apply all usual lending standards to determine the creditworthiness of each applicant.

(2) No loan shall exceed one million dollars ($1,000,000).

(3) The maturity date of the loan shall be set as agreed to between the authority and the borrower with a maximum maturity of ten (10) years.

(4) The rate of interest for the term of the loan shall be fixed at the Wall Street Journal prime rate as published on the first business day of each month, with a minimum interest rate of five percent (5%) per annum.

(5) Upon default by an approved borrower, the authority shall have the right, at its option, to declare the loan agreement or documents in default; and

(a) Accelerate and declare the total of all the payments due by the borrower and sell the project at public, private, or judicial sale;

(b) Pursue any remedy provided under the loan agreement or other documents;

(c) Be entitled to the appointment of a receiver by the Circuit Court of the county wherein any part of the project is located; and

(d) Pursue any other remedy at law to which it appears to be entitled.

SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate Sections 1 to 6 of this Act, including the promulgation of administrative regulations, in accordance with the provisions of KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

SECTION 6. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Obligations issued under Sections 1 to 6 of this Act shall not be deemed to constitute a debt, liability, or obligation of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any political subdivision, but shall be payable solely from the revenues or assets of the authority. Each obligation issued under Sections 1 to 6 of this Act shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay the same nor the interest thereon, except from the revenues or assets pledged therefor, and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of or the interest on the obligations.

(2) Expenses incurred by the authority in carrying out Sections 1 to 6 of this Act may be payable from funds provided pursuant to Sections 1 to 6 of this Act and no liability shall be incurred by the authority beyond the extent to which moneys shall have been so provided.

Section 7. This Act shall take effect July 1, 2008.

HB 460, AN ACT relating to income tax credits for small businesses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBCHAPTER 60 OF KRS CHAPTER 154 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

(1) "Average hourly wage" has the same meaning as in KRS 154.28-010;

(2) "Base employment" means:

(a) For the initial year for which credits are claimed, the number of full-time employees employed on December 31 of the base year; and

(b) For subsequent years, the greater of:

1. The number of full-time employees employed on December 31 of the base year plus each eligible position for which a credit has been claimed under Section 2 of this Act; or

2. The number of full-time employees employed on December 31 of the prior year;

(3) "Base year" means the later of the first full year of operation of a small business, or the year that begins on or after January 1, 2007, and before January 1, 2008;

(4) "Creates and fills" means establishes a new eligible position and hires a full-time employee, and replaces that employee within thirty (30) days if the employee ceases for any reason to be employed by the employer;

(5) "Eligible position" means each position that:

(a) Is filled by a full-time employee and that increases the total employment of the small business above its base employment; and

(b) Carries a base hourly wage of no less than seventy-five percent (75%) of the lesser of the average hourly wage of the Commonwealth or of the county in which the small business is located, but in no case shall the minimum base hourly wage be less than one hundred fifty percent (150%) of the federal minimum wage;

(6) "Full-time employee" means a person employed by a small business for at least thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020; and

(7) "Small business" has the same meaning as in KRS 13A.010.

SECTION 2. A NEW SECTION OF SUBCHAPTER 60 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Economic Development Finance Authority is hereby authorized to develop and fund a small business

development credit program within the Division of Small Business Services to assist new or existing small businesses operating in the Commonwealth. The nonrefundable credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall be as provided in Section 5 of this Act.

(2) The Division of Small Business Services shall determine the terms, conditions and requirements for application for the credit, in consultation with the Kentucky Commission on Small Business Advocacy. The application shall contain identification information about the number of eligible positions created and filled, a calculation of the base employment of the small business for each year from fiscal year 2007 and forward, and other information the division may specify to determine eligibility for the credit.

(3) A small business that creates and fills one (1) or more eligible positions in any year after its base year may apply for the credit. The small business shall be eligible to apply for the credit when the eligible position has been created and filled for twelve (12) months. The amount of the credit shall not exceed twenty-five thousand dollars ($25,000) for each small business for each year in which at least one (1) eligible position is created and filled. The amount awarded to each small business shall be determined by the division.

SECTION 3. A NEW SECTION OF SUBCHAPTER 60 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The maximum amount of credits that may be approved each year under Sections 1 to 3 of this Act is five million dollars ($5,000,000). Applications that are complete and in order shall be evaluated based on the date of receipt. When five million dollars ($5,000,000) of credits have been approved in a year, no further credits shall be approved for that year. Applications that are not approved for any year shall not be carried forward for consideration in any subsequent year. By no later than February 1 of each year, applicants and the Department of Revenue shall be notified by the Division of Small Business Services of the amount of credits approved for the prior year.

(2) The credit shall be claimed on the tax return for the year approved. Unused credits may be carried forward for up to five (5) years.

SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "small business" has the same meaning as in KRS 13A.010;

(2) A small business that is subject to the tax imposed by KRS 141.040 and that has tax credits approved under Sections 1 to 3 of this Act shall apply the credits against the income tax imposed by KRS 141.040 and against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in Section 5 of this Act.

(3) A small business that is a pass-through entity not subject to the tax imposed by KRS 141.040 and that has tax credits approved under Sections 1 to 3 of this Act shall apply the credits against the limited liability entity tax imposed by KRS 141.0401, and shall also distribute the amount of the approved tax credits to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of income as determined for the year during which the tax credits are approved, with the ordering of credits as provided in Section 5 of this Act.

Section 5. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415,[~~and~~] 154.12-2088*, and Section 2 of this Act*;

(c) The certified rehabilitation credit permitted by KRS 171.397;

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;
(n) The environmental stewardship credit permitted by KRS 154.48-025; and
(o) The clean coal incentive credit permitted by KRS 141.428.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
(a) The individual credits permitted by KRS 141.020(3);
(b) The credit permitted by KRS 141.066;
(c) The tuition credit permitted by KRS 141.069; and
(d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
(a) The individual withholding tax credit permitted by KRS 141.350;
(b) The individual estimated tax payment credit permitted by KRS 141.305; and
(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415,[~~and~~] 154.12-2088*, and Section 2 of this Act*;
(b) The certified rehabilitation credit permitted by KRS 171.397;
(c) The health insurance credit permitted by KRS 141.062;
(d) The unemployment credit permitted by KRS 141.065;
(e) The recycling or composting equipment credit permitted by KRS 141.390;
(f) The coal conversion credit permitted by KRS 141.041;
(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
(i) The coal incentive credit permitted under KRS 141.0405;
(j) The research facilities credit permitted under KRS 141.395;
(k) The employer GED incentive credit permitted under KRS 151B.127;
(l) The voluntary environmental remediation credit permitted by KRS 141.418;
(m) The biodiesel credit permitted by KRS 141.423;
(n) The environmental stewardship credit permitted by KRS 154.48-025; and
(o) The clean coal incentive credit permitted by KRS 141.428.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

HB 468, AN ACT relating to economic development and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;

(2) The economic development project shall result in the creation by the eligible company of a minimum of fifteen (15) new full-time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth at the activation date set forth in the company's service and technology agreement as described in KRS 154.24-120. The activation date shall occur within two (2) years after the date of the final

resolution authorizing the economic development project. The authority may extend the period for compliance with this subsection up to one (1) year from the activation date upon the written application of an eligible company requesting an extension;

(3) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage.

(c) In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wages through increased hourly wages combined with employee benefits;

(4) ***If an eligible company receives approval from the authority before July 1, 2008, and locates an economic development project on property that adjoins one of the five (5) regional postsecondary education centers operated and occupied in cooperation with the Kentucky Community and Technical College System, the eligible company may alternatively satisfy the requirements of subsection (3) of this section in the following manner:***

(a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created as a result of the project with total of base hourly wages plus employee benefits equal to or greater than two hundred percent (200%) of the federal minimum wage, providing that base hourly wages shall be greater than or equal to one hundred fifty percent (150%) of the federal minimum wage;

(b) The eligible company shall provide to the authority a statement certifying that the eligible company will seek to provide full-time or part-time employment opportunities for nontraditional students who are enrolled or seek to be enrolled at a regional postsecondary education center; and

(c) The director of the regional postsecondary education center shall provide to the authority a statement asserting that the eligible company is likely to provide appropriate employment opportunities for students and that the economic development project may be reasonably expected to provide meaningful opportunities for technological and infrastructural enhancements;

(5) Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

(6)[~~(5)~~] That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 2. Whereas the competitive nature of the global marketplace requires businesses and governments to respond to available opportunities with expediency, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Appropriations and Revenue reported **HB 316, HB 359,** and **HB 402** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 316, AN ACT relating to certain tax refund suits and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.580 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Agency" means the agency of state government which administers the tax to be refunded or credited.

(b) "Overpayment" or "payment where no tax was due" means the tax liability under the terms of the applicable statute without reference to the constitutionality of the statute.

(2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Board of Tax Appeals or courts may direct.

(3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and 131.340.

(4) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(5) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.

(6) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.

(7) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

(8) No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.

(9) Notwithstanding any provision of the KRS to the contrary:

(a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose.

(b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn.

(c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.

(10) Notwithstanding any provision of the KRS to the contrary:

(a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

(b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

Section 2. Whereas recent judicial decisions and refund suits based on combined returns or consolidated returns described in subsections (9) and (10) of Section 1 of this Act could result in catastrophic losses of public revenues desperately needed to fund education, social services, and public improvements projects and initiatives for the benefit of the Commonwealth and all its citizens; and, whereas the immunity of the Commonwealth as the sovereign from suit without the consent of the General Assembly is absolute and unqualified; and, whereas no money shall be drawn from the State Treasury, except in pursuance of appropriations made by law, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the

Governor or its otherwise becoming a law.

HB 359, AN ACT relating to information to be provided to the staff of the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) The staff of the Legislative Research Commission is responsible for providing services to the General Assembly and the Legislative Research Commission, including fiscal analysis of legislation and proposed legislation, economic studies and analysis, and the staffing of budget and revenue committees. To facilitate the provision of these services, the staff of the Legislative Research Commission requires information and data in the possession of other agencies and instrumentalities of state government.

(2) Notwithstanding KRS 131.190, any provisions of KRS Chapter 154, or any other provision of the Kentucky Revised Statutes to the contrary, the Department of Revenue and the Cabinet for Economic Development shall provide, upon request of the Legislative Research Commission, any information necessary for the Legislative Research Commission staff to perform its duties. The Department of Revenue and the Cabinet for Economic Development shall provide the requested information in a timely manner, and shall provide any assistance needed to facilitate the review, copying, or inspection of any public or confidential information requested, whether written or electronic. The information shall be used by Legislative Research Commission staff for official purposes only.

(3) Information that shall be provided upon request includes:

(a) Any information acquired from any records of the Department of Revenue, including individual taxpayer information but excluding information received by the department from the Internal Revenue Service, whether such information is classified as confidential or public; and

(b) Any information acquired from any records of the Cabinet for Economic Development, including individual company information, whether such information is classified as confidential or public.

(4) The Department of Revenue and Cabinet for Economic Development shall allow the staff of the Legislative Research Commission to interview its employees during normal working hours, without any restrictions imposed by the Department of Revenue or the Cabinet for Economic Development, for the purpose of obtaining information pertinent to the responsibilities set forth in subsection (1) of this section.

(5) The contents of interviews conducted by staff of the Legislative Research Commission, or any information supplied at the request of the Legislative Research Commission or Legislative Research Commission staff which is not specifically restricted by KRS 61.878 may be classified as confidential by the Department of Revenue or the Economic Development Cabinet and, if so classified, shall not be subject to release under KRS 61.872. The provisions of this paragraph shall not apply to reports or documents routinely maintained by the Department of Revenue or the Cabinet for Economic Development subject to release under KRS 61.872.

(6) If the information sought by the Legislative Research Commission is required by law to be confidential the staff of the Legislative Research Commission shall have access to the information, but shall maintain the confidentiality of the information. The staff of the Legislative Research Commission shall be subject to the same penalties as the custodian of the information for improper dissemination of such information. The Legislative Research Commission shall limit the Legislative Research Commission staff who shall have access to confidential data to those whose duties and responsibilities involve the review and analysis of data. The Legislative Research Commission shall provide a list of such staff members to the agency at the time the data is requested and shall update the list as necessary when staff members with access change.

(7) Access to information provided to the staff of the Legislative Research Commission pursuant to the provisions of this section does not extend to members of the General Assembly. While staff of the Legislative Research Commission may share summary analysis and research resulting from the information and data provided pursuant to the provisions of this section that is required by law to be confidential, or that is classified by the Department of Revenue or the Economic Development Cabinet as confidential under subsection (5) of this section, the unsummarized confidential data and information that could identify an individual taxpayer or company shall not be shared with members of the General Assembly by staff of the Legislative Research Commission.

(8) The provisions of KRS 7.320(3) shall apply to enforce the provisions of this section.

HB 402, AN ACT relating to pari-mutuel taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.510 is amended to read as follows:

(1) *(a)* Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Horse Racing Authority.

1. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year.[~~ A fiscal year as used in this subsection and subsection (3) of this section shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30.~~]

2. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year.

3. A fiscal year as used in this paragraph shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30.

(b) [~~However,~~]Effective January 1, 2006, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars ($10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track. This tax exemption shall remain in effect for any succeeding one (1) day international horse racing event if the event returns within three (3) years of the previously-held event.

(c) 1. Effective July 1, 2007, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted at a host track for the conduct of a one (1) day horse race meeting, as defined in KRS 230.210, that distributes in excess of six hundred fifty thousand dollars ($650,000) in purses if the host track:

a. Has an average daily handle under one million two hundred thousand dollars ($1,200,000); and

b. Is authorized to conduct live racing a minimum of thirty (30) days in a calendar year.

2. A host track shall not receive an exemption for more than one (1) event in each calendar year.

(d) For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:

1.[~~(a)~~] At a receiving track;

2.[~~(b)~~] At a simulcast facility;

3.[~~(c)~~] On telephone account wagering; or

4.[~~(d)~~] At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

(e) Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds *as follows:*

1. [~~in the amount of ~~]Three-quarters of one percent (0.75%) of the total live racing handle for thoroughbred racing *shall be deposited in the thoroughbred development fund established under KRS 230.400;* and

2. One percent (1%) of the total live handle for harness racing *shall be deposited in the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund established under KRS 230.770*.

(2) *(a)* An excise tax is imposed on:

1.[~~(a)~~] All licensed tracks conducting telephone account wagering;

2.[~~(b)~~] All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Horse Racing Authority; and

3.[~~(c)~~] All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(b)[~~(3)~~] The tax[~~ imposed in subsection (2) of this section~~] shall be in the amount of three percent (3%) of all money wagered[~~ under subsection (2) of this section~~] during the fiscal year. *A fiscal year as used in this subsection shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30.*

(c) A noncontiguous track facility approved by the Kentucky Horse Racing Authority on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars ($250,000) or less. The amount of money exempted under this subsection shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.

(d)[~~(4)~~] An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in *this* subsection[~~ (2) of this section~~] and deposited as follows:

1.[~~(a)~~] If the money is deducted from taxes imposed under *subparagraphs 1. and 2. of paragraph (a) of this* subsection[~~ (2)(a) and (b) of this section~~], it shall be deposited in the thoroughbred development fund *established under KRS 230.400* if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund *established under KRS 230.770*, if the host track is conducting a harness race meeting; or

2.[~~(b)~~] If the money is deducted from taxes imposed under *subparagraph 3. of paragraph (a) of this* subsection[~~ (2)(c) of this section~~], *it shall be deposited in*[~~to~~] the thoroughbred development fund *established under*

KRS 230.400 if interstate wagering is conducted on a thoroughbred race meeting***,*** or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund ***established under KRS 230.770***[~~,~~] if interstate wagering is being conducted on a harness race meeting.

(3)[~~(5)~~] Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund ***established under KRS 230.550*** to be used for funding the equine industry program at the University of Louisville.

(4)[~~(6)~~] ***(a)*** One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1)[~~,~~] ***and*** (2)[~~, and (3)~~] of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities.

(b) These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities.

(c) The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.

(d) The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 2. KRS 230.752 is amended to read as follows:

All harness racetracks licensed by the authority shall not be required to pay the excise tax imposed under KRS 138.510(2)[~~ and (3)~~], and the amount that would have been paid under those subsections shall be retained by the track to promote and maintain its facilities and its live meet.

Section 3. This Act takes effect July 1, 2007.

The Committee on Natural Resources and Environment reported **HB 207,** with Committee Substitute attached thereto, and **HB 543,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 207, AN ACT relating to mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.025 is amended to read as follows:

The department shall:

(1) Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, ***state or federal*** mine safety laws ***place***[~~places~~] miners in imminent danger of serious injury or death. These criteria shall include but not be limited to the following:

   (a) In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification[~~ for up to ten (10) working days~~] for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;

   (b) In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars ($10,000); and

   (c) In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;

(2) Notwithstanding KRS 351.070(15), promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises for violations of ***state or federal*** mine safety laws that place miners in imminent danger of serious injury or death. These penalties shall include but not be limited to the revocation or suspension of the mine's license, the probation of a mine's license[~~ for a first offense~~], or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;

(3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;

(4) Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration

(MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners ***and for reports made to the Office of Mine Safety and Licensing from miners under Section 11 of this Act***;

(5) Jointly with the Mine Safety Review Commission establish a process for referring allegations of ***state or federal*** mine safety violations to the Mine Safety Review Commission for adjudication and for the hearing of appeals from penalties imposed by the Office of Mine Safety and Licensing, and the underlying violation, ***including but not limited to those*** authorized under KRS 351.070(15); and

(6) Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.

Section 2. KRS 351.030 is amended to read as follows:

(1) All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B ***and this section***. Following the hearing, the department shall decide each matter in controversy. No person shall be discharged or otherwise discriminated against by his or her employer for testifying, or for his failure to testify, at these hearings.

(2) Spouses of miners killed in mine accidents, miners that are injured as the result of an accident, and miners that are significantly affected by the conduct that gave rise to a disciplinary proceeding shall be granted the right of full intervention by the commission. The petition for intervention shall be made in accordance with KRS 13B.060(3).

Section 3. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.

(2) The secretary shall appoint an executive director to the Office of Mine Safety and Licensing in accordance with KRS 224.10-020(2) and prescribe his powers and duties.

(3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.

(4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.

(5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.

(6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.

(7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.

(8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.

(9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.

(10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

(11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.

(12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.

(13) The secretary of the Environmental and Public Protection Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.

(14) The commissioner shall ascertain the cause or causes of any coal mining fatality and, within sixty (60) days of completion of the investigation, shall report his or her findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. ***The commissioner shall permit a representative of the deceased miner to be designated by the coal miner's spouse or next of kin.*** The recommendations may include without being limited to the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality. ***The designated representative of the miner shall be permitted to attend accident interviews conducted by the Office of Mine Safety and Licensing.***

(15) The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans***, mine seal construction plans,*** and mine ventilation plans that could lead to imminent danger or serious physical injury. The Environmental and Public Protection Cabinet shall promulgate administrative regulations within ninety (90) days of July 12, 2006, providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars ($5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under KRS 351.025(2) for imposing penalties against licensed facilities.

Section 4. KRS 351.090 is amended to read as follows:

(1) The Governor shall appoint an adequate number of mine inspectors to ensure at least two (2) inspections annually ***at all surface mines***, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners; except the commissioner shall inspect all underground coal mines not less than ***six (6)***[~~three (3)~~] times annually. ***The commissioner or his or her authorized representative shall conduct electrical inspections of all underground coal mines no less than two (2) times annually.*** One (1) or more of the appointees ***shall***[~~may~~] be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.

(2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.

(3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person appointed as mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

(4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.

(6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

Section 5. KRS 351.1041 is amended to read as follows:

(1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Environmental and Public Protection Cabinet, Office of the Secretary, for administrative purposes. The commission shall:

(a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal***, including investigations of unsafe working conditions,*** in accordance with KRS 351.194;

(b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations, violation of a miner's drug- and alcohol-free condition of certification, or supervisory personnel's failure to immediately report a fatal accident or an accident involving serious physical injury to the commission for adjudication;

(c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:

1. All reports of coal mining fatalities provided by the commissioner under KRS 351.070(14);

2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious physical injury

or death resulting from the violations;

3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and

4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.

(2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.

(3) The members of the Mine Safety Review Commission ***shall be full-time employees as defined in KRS 18A.005(17) and*** shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall ***be paid a salary fixed under KRS 64.640 to be paid monthly for***[~~receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in~~] conducting the business of the commission.

(4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.

(5) The Governor may remove any member for good cause, including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.

(6) The commission shall meet on the call of the chair or a majority of the members of the commission.

(7) The Environmental and Public Protection Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Environmental and Public Protection Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B ***and this chapter***, notwithstanding the provisions of KRS 13B.030(2)(b).

(8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.

(9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.

(10) The secretary of the Environmental and Public Protection Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This may include an executive director, general counsel, or other administrative support positions, to be appointed in accordance with KRS 12.010 and 12.050.

Section 6. KRS 351.1055 is amended to read as follows:

(1) There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Environmental and Public Protection Cabinet.

(2) The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations ***annually*** to the executive director of the Office of Mine Safety and Licensing regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. ***If there is no existing law to the contrary, the commissioner shall implement the recommendations of the panel.*** Based on the recommendations provided by the panel, the executive director shall comprise a list of commercially available mine safety equipment, including wireless tracking and communications devices that may be approved for use by coal miners.

(3) The panel shall meet at the call of the chair. The chair of the panel shall be the executive director of mine safety and licensing. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.

(4) The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after July 12, 2006:

(a) One (1) member shall represent the National Institute of Occupational Safety and Health;

(b) One (1) member shall represent the federal Mine Safety and Health Administration;

(c) One (1) member shall represent the coal industry;

(d) One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;

(e) One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and

(f) One (1) member shall be the executive director of the Office of Mine Safety and Licensing.

(5) The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. Periodically, the panel shall review and make recommendations to the executive director on changes to or innovations in mine safety equipment that could be deployed in coal mines.

Section 7. KRS 351.106 is amended to read as follows:

(1) The Mining Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least sixteen (16) hours of annual retraining and reeducation for all certified persons, of which thirty (30) minutes annually shall be dedicated to alcohol and substance abuse education. ***Furthermore, eight (8) hours of annual training on changes in mine safety laws, disciplinary cases litigated before the Mine Safety Review Commission, changes in mine safety technology, and ways to improve safe working procedures shall be required for all mine foremen.***

(2) One (1) hour of initial substance abuse training and education shall be required as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement shall not apply to certified persons who received the one (1) hour initial substance abuse training and education as part of their forty (40) hour or twenty-four (24) hour new miner training.

(3) In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to receive an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.

(4) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least sixteen (16) hours of retraining and reeducation.

(5) Newly hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.

(6) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.

(7) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.

(8) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.

(9) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn immediately from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.

(10) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.

(11) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.

(12) The secretary may promulgate administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include but not be limited to implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.

(13) The commissioner shall keep and maintain current records on all certified miners, all of which shall be maintained by computer for ready access. ***The commissioner shall not grant certification to any person that, at the time of application, had his or her miner certification, foreman certification, electrician certification, or any other mining speciality certification suspended or revoked by another state.***

(14) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.

(15) The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.

(16) All training and education required by this section may be conducted in classrooms, on the job, or in simulated mines.

Section 8. KRS 351.127 is amended to read as follows:

(1) [~~A~~]Certified emergency medical ***technicians***[~~technician~~] or mine emergency ***technicians***[~~technician~~] shall be employed at every licensed coal mine whose employees are actively engaged in the extraction, production, or preparation of coal. Persons employed as mine emergency technicians shall be trained in a manner established in an administrative regulation promulgated by the department. Persons seeking certification as a mine emergency medical technician or mine emergency technician shall be subject to the following additional requirements:

(a) All persons seeking certification as a mine emergency technician shall demonstrate drug- and alcohol-free status in accordance with KRS 351.182 and 351.183;

(b) The drug and alcohol testing for those seeking certification as mine emergency technicians shall be administered prior to the examination for the certification, in accordance with KRS 351.182 and 351.183; and

(c) Certification as a mine emergency technician shall not be issued until the results of the drug and alcohol testing have been obtained. Notification shall be given to the person in accordance with KRS 351.184.

(2) These emergency medical technicians or mine emergency technicians shall be employed in the following manner:

(a) ***At least two (2)***[~~One (1)~~] emergency medical[~~ technician~~] or mine emergency ***technicians***[~~technician~~] shall be employed on every ***working*** shift[~~ with a workforce of up to fifty (50) employees~~];

(b) ***The emergency or mine emergency technicians shall be underground at all times while miners are working in the mines***[~~An additional emergency medical technician or mine emergency technician shall be employed for every additional fifty (50), or any portion thereof, employees per shift who are actively engaged in the extraction, production, or preparation of coal~~].

(3) If these emergency medical technicians or mine emergency technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(4) If the licensee selects existing employees to be trained as emergency medical technicians or mine emergency technicians, the employees selected shall be paid their regular wages during training.

(5) Certified emergency medical technicians and mine emergency technicians shall receive annual retraining in the manner established in an administrative regulation promulgated by the department, during which they shall receive their regular wages.

Section 9. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each underground coal mine in his district at least ***six (6)***[~~three (3)~~] times a year and all other mines once every six (6) months. ***At least two (2) annual inspections shall include inspection of electrical workings.*** The commissioner may cause inspections more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal including any overland coal belts; and

(8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Section 10. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in

accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). The license shall be issued when the following are properly submitted to the commissioner:

(a) The annual report of the licensee and the annual mine map required in KRS 351.170 and 352.450;

(b) A certification from the executive director of the Office of Workers' Claims that the licensee has provided positive proof of compliance with the provisions of KRS Chapter 342;

(c) A certification from the commissioner of the Department of Revenue that the licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;

(d) ***Mine seal construction plan;***

(e) Roof control plan;

(f) The ventilation plan required in KRS 352.020; and

(g)[~~(e)~~]An approved emergency action plan required by KRS 352.640.

(5) The department shall immediately revoke any license if the department receives:

(a) Withdrawal of the certification of compliance with KRS Chapter 342 issued by the executive director of the Office of Workers' Claims; or

(b) Notice from the commissioner of the Department of Revenue that the licensee is a "delinquent taxpayer" as defined in KRS Chapter 131.

(6) The commissioner, the executive director of the Office of Mine Safety and Licensing, or the mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(7) The department shall be authorized to seek injunctive relief for any violation of this section. Revocation of a license by the department shall be an administrative function of the department. Appeals from revocation by the department shall be brought in Franklin Circuit Court.

(8) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the commissioner of revenue.

(9) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 11. KRS 351.191 is amended to read as follows:

Each underground coal mine operator shall submit documentation to the commissioner that a trained mine rescue team is ***available within thirty (30) minutes' driving time from each of the operator's mines. Small underground coal mine operators may contract for mine rescue team services and shall submit documentation to the commissioner that the contracted mine rescue team has toured the underground mine and received training on the specific conditions of the mine for which it will provide mine rescue services***[~~within sixty (60) minutes' driving time of each of his mines~~]. In the event that a trained mine rescue team is not available as required, the department shall provide a trained mine rescue team which would be available to the mine within ***thirty (30)***[~~sixty (60)~~] minutes' driving time and shall so notify in writing the appropriate official of the United States Mine Safety and Health Administration.

Section 12. KRS 351.193 is amended to read as follows:

No miner shall be required to operate any equipment or work in any condition which he reasonably believes to be unsafe. If the miner invokes his or her safety rights under this section, the miner shall have the right to be relieved from the assignment in dispute. The employee may be assigned to correct the condition or may be assigned to other duties until such time as the condition is resolved or corrected. No other miner shall be assigned to perform this job until the condition is corrected. The miner or his authorized representative and the company shall review the condition immediately and attempt to resolve the dispute. Should the miner not have an authorized representative, he may represent himself in the dispute. If the dispute is not settled by the company and the miner or his or her authorized representative, ***the miner may immediately inform***[~~either party reserves the right to call in~~] the commissioner or his authorized representative***.*** [~~immediately and~~]The dispute shall be settled on the basis of the inspector's finding with a written copy of his finding given to the company and the miner and his authorized representative. In the event no representative of the miner exists, the employee shall have the right to have the dispute resolved based on the inspector's findings.

No disciplinary action shall be taken against a miner by a licensee unless the miner is found by the commissioner or his authorized representative to have acted in bad faith and without good cause in making an allegation as to unsafe equipment or working conditions.

Section 13. KRS 351.194 is amended to read as follows:

(1) The Mine Safety Review Commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish administrative hearings procedures to be followed in determining if violations of ***state or federal*** mine safety laws, including, but not limited to, violations that meet the criteria established in KRS 351.025(1) or (2), have occurred and to establish a process to review recommended orders from any hearing officers acting on behalf of the commission. The procedures shall follow the requirements of KRS Chapter 13B ***and this chapter***.

(2) The chair or a majority of the Mine Safety Review Commission may convene a meeting of the commission at which it shall consider whether to schedule a hearing regarding any licensee, coal operation, or other person involved in the mining of coal.

(3) If the commission determines that there is probable cause to believe that the licensee, coal operation, or other person against whom the department has made allegations of unsafe work practices or other violation of applicable law is guilty of an alleged violation, the commission shall schedule a hearing at which the department shall offer evidence in support of the allegations made by it. The licensee, coal operation, or other person against whom the allegations are made shall be given not less than twenty (20) days' written notice of the charges against him, together with the date, time, and place at which the charges shall be heard, and of his opportunity to be represented by counsel, produce evidence and witnesses on his behalf, and examine the evidence and documents that may be produced against him. The commission may also be represented by counsel and shall not be bound by the technical rules of evidence, but its order shall be based upon competent evidence. Any licensee or other person summoned to appear at a hearing in the manner established in this subsection may, in writing, waive the notice required to be given to him.

(4) The commission may proceed with its hearing of charges made by the department against any licensee, coal operation, or other person who, after being duly notified in accordance with the requirements of this section, fails to appear at or participate in the hearing and who fails to assert any legitimate basis for the failure.

(5) Within ninety (90) days after hearing, the commission shall issue an order in which it sets out its determinations concerning each matter coming before it. Copies of the order shall be provided to all parties to the hearing. The department shall carry out or enforce, as appropriate, the order of the commission, which may include, though not be limited to, the imposition of civil penalties, revocation, suspension, or probation of the mine license or the miner's certification.

(6) The commission may modify a civil penalty or fine established under this chapter, under criteria established by the commission by administrative regulations.

(7) In assessing monetary penalties within the limits provided in KRS 351.025, the commission shall consider the operator's history of previous violations, the appropriateness of the penalty to the size of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation, and whether a penalty has been imposed by the Federal Mine Safety and Health Act for a violation that arose out of the same set of facts or circumstances.

(8) An appeal of an order of the commission shall be filed in the Franklin Circuit Court within thirty (30) days of entry of the order.

Section 14. KRS 351.990 is amended to read as follows:

(1) Any person who violates ***Section 12 of this Act or*** any of the provisions of KRS 351.315 to 351.375 or any administrative regulation, determination, or order promulgated in accordance with ***Section 12 of this Act or*** KRS 351.315 to 351.375 shall be subject to a civil fine not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) for each violation.

(2) Any person who willfully violates any of the provisions of KRS 351.315 to 351.375 or any administrative regulation, determination, or order promulgated in accordance with KRS 351.315 to 351.375 which has become final shall be guilty of a Class A misdemeanor.

(3) Any person who violates any of the provisions of KRS 351.330(16) shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the provisions of KRS 351.345(2) shall be guilty of a Class D felony.

(5) Any operator who fails to obtain his license as required by KRS 351.175 shall be guilty of a Class A misdemeanor as defined in KRS 532.090. Each day the mine is operated without a license constitutes a separate offense. Venue for the offenses shall lie in the county in which the offense occurred.

(6) Any operator operating a mine with knowledge that the mine has been placed under a valid closure order pursuant to KRS 351.175 shall be guilty of a Class D felony. Jurisdiction shall lie in the Circuit Court of the county in which the offense occurred.

(7) Any blasting operation that results in the death or serious physical injury of a person may be subject to a civil fine not more than twenty thousand dollars ($20,000). For the purposes of this subsection, "serious physical injury" means an

injury which has a reasonable potential to cause death.

Section 15. KRS 352.020 is amended to read as follows:

(1) A mine ventilation plan and any revision of an existing mine ventilation plan shall be suitable to the ventilation conditions and mining system of each mine. The mine ventilation plan and any revisions to the mine ventilation plan approved by the United States Mine Safety and Health Administration shall be submitted to the executive director or his or her authorized representative and incorporated into the license. All mine ventilation plans shall be set forth in printed form. The mine ventilation plan shall require the air quality throughout the mine to contain at least nineteen and one-half percent (19.5%) oxygen and not more than one-half of one percent (0.5%) of carbon dioxide, and the volume and velocity of the air current shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases and dust, smoke, and fumes. A copy of the mine ventilation plan and any revisions to that plan shall be available to the miners and their representatives.

(2) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

(3) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases.

(4) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (3) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.

(5) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air. Return-air courses shall not be designated as primary escapeways.

(6) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner or his authorized representative may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air or the travel of equipment, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.

(7) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.

(8) The ventilation plan shall require all fans utilized in the ventilation plan to be in operation for ***at least twenty-four (24) hours prior to the entry of miners into underground areas***~~[a sufficient period]~~ to ensure air quality and equalization of the mine atmosphere ***if the fans have not operated for more than eight (8) hours***~~[prior to the entry of workers into underground areas]~~.

Section 16. KRS 352.030 is amended to read as follows:

(1) As many as sixty (60) persons may work in the same air current or split, and with the approval of the mine inspector and the commissioner, as many as eighty (80) persons may work in the same air current. Each active section in a mine shall be ventilated by a separate split of intake air ***and shall not come from the beltline entry***. Every mine, and all portions thereof, shall be ventilated by one (1) or more currents of air, which shall contain not less than nineteen and one-half percent (19.5%) of oxygen, nor any dangerous quantities of flammable gas, nor any harmful amount of poisonous gases or dust,

when the current of air enters into each split. The ventilation shall be sufficient to prevent methane accumulations, so far as practicable, and to keep the methane percentage in the return of any split to not more than two percent (2%).

(2) The ventilating current shall be circulated through the haulageways, travelways, and airways to reach all portions of the mine, except sealed sections; and it shall be circulated through the entries and rooms around the ends of line brattice and along pillar lines. It shall be conducted to the last breakthrough, or to the working faces if required, by means of stoppings, check doors, curtains, and brattice that may be necessary or required, in order to dilute, render harmless, and carry away the noxious and dangerous gases, smoke, and dust liberated therein, and to supply a sufficient quantity of ventilation for all emergencies. The ventilating current in the area of a mine's belt entries shall be directed to an air return before the ventilating current reaches the face area[~~, unless the department, under certain conditions issues a permit for belt air to be used at the coal face. The department shall render a final written decision within sixty (60) calendar days of receipt of the permit application~~].

(3) When mine ventilation, formerly satisfactory and adequate, becomes deficient in quality or quantity, the department shall have authority to order improvement of the ventilation.

(4) No licensee, superintendent, or mine foreman shall permit any person to work at a place where sufficient ventilation cannot be maintained, except persons employed to make the places of employment safe in compliance with the requirements of this chapter, and while repair work necessary to comply with the requirements is in progress no person shall be permitted to enter that part of the mine affected except those actually employed in doing the repair work. The repair work shall be done under the constant supervision of a certified official designated by the mine foreman.

(5) Each licensee shall adopt a plan which shall provide that when any mine fan stops, immediate action shall be taken by the licensee or his agent:

(a) To withdraw all persons from the working sections;

(b) To cut off the power in the mine in a timely manner;

(c) To provide for restoration of power and resumption of work if ventilation is restored within a reasonable period, of not more than fifteen (15) minutes, as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of one percent (1%) or more exists therein; and

(d) To provide for withdrawal of all persons from the mine if ventilation cannot be restored within a reasonable time, of not more than fifteen (15) minutes.

The plan and revisions thereof approved by the commissioner or his authorized representative shall be set out in printed form and a copy shall be furnished to the commissioner or his authorized representative.

Section 17. KRS 352.090 is amended to read as follows:

(1) All unused workings and abandoned parts of mines shall be protected by safeguards that will prevent the accumulation or overflow of gas, and all avenues leading thereto shall be so arranged and conducted as to give warning to all persons of the danger of entering, and notice shall be posted warning all unauthorized persons not to enter these parts of the mine. If the area cannot be adequately ventilated, and examined, or evaluated it shall be sealed in a timely manner.

(2) No person, except persons authorized to make examination thereof, shall enter any unused or abandoned part of a mine after the warning has been posted.

(3) Where the practice is to seal abandoned workings, the sealing shall be done ***in accordance with a mine seal construction plan submitted to the Office of Mine Safety and Licensing. The construction of mine seals according to the mine seal construction plan shall be certified by the mine superintendent after inspection and approval by a licensed engineer. Seal construction shall be done*** immediately in an effective manner with noncombustible material. In every sealed area, one (1) or more of the seals shall be fitted with a pipe and cap or valve to permit the gases behind the seals to be sampled and also to provide a means of determining any existing hydrostatic pressure. When required by the mine inspector and commissioner, drill holes shall be extended from the surface to the sealed area, or vent pipes shall be extended from the sealed area to a return air course. Sufficient ventilation shall be provided at each seal to prevent dangerous gases from accumulating.

Section 18. KRS 352.133 is amended to read as follows:

(1) All underground miners shall be provided with an approved self-contained self-rescuer device and shall have that device within twenty-five (25) feet of them at all times. The self-contained self-rescuer shall be provided to the miners by the licensee at no cost to the miners.

(2) In addition to the requirements for self-contained self-rescuers set forth in this section, all licensed premises shall maintain caches of self-contained self-rescuer devices which shall be stored in ***both***[~~locations readily accessible to~~] the primary and secondary escapeways ***at intervals of one thousand two hundred fifty (1,250) feet for coal seams forty-eight (48) inches or less and at two thousand five hundred (2,500) feet for seams greater than forty-eight (48) inches. If, due to unavailability of the self-contained self-rescuers, the licensee cannot furnish self-contained self-rescuers in accordance with this section, the licensee shall***[~~or~~] provide proof of an order for self-contained self-rescuers through the submission of a valid purchase order that clearly names the vendor, contact information for the vendor, the number of devices purchased, and the date of the order, which shall not be later than thirty (30) days after July 12, 2006. In all cases, the self-

contained self-rescuers shall be in place by July 1, 2007, or shall be extended by the commissioner upon substantiated proof of unavailability.

(a) The caches shall be maintained in sufficient numbers and locations determined in accordance with the most recent rules, standards, and regulations issued by the United States Mine Safety and Health Administration ***and this section***.

(b) The caches shall be maintained in storage units capable of protecting the self-contained self-rescuers from water, dust, and any other condition which will cause deterioration of the self-contained self-rescuers.

(c) The storage unit locations shall have reflective signs that read "SELF-RESCUERS" conspicuously posted as to be visible from the primary and secondary escapeways. Intrinsically safe strobe light devices also shall be attached to the storage unit. The strobe light devices may operate continuously or shall be capable of activation in the event of a mine emergency.

(d) In addition to the requirements set forth in this section for self-contained self-rescuers, the mine operator shall provide for each person who is underground at least one (1) additional self-contained self-rescuer device which provides protection for a period of one (1) hour or longer, to cover all persons in the mine.

(e) If a mantrip or mobile equipment is used to enter or exit the mine, additional self-contained self-rescuer devices, each of which provides protection for a period of one (1) hour or longer, shall be available for all persons who use the transportation from portal to portal.

(3) It shall be a Class D felony for any person to remove a self-rescuer from the cache for purposes other than use during an emergency, or for repair, maintenance, or replacement or as authorized by the licensee.

Section 19. KRS 352.135 is amended to read as follows:

In all designated escapeways, each operator shall provide lifeline cords, with attached reflective material at not to exceed twenty-five (25) foot intervals and devices indicating the direction to the surface at not to exceed one hundred (100) foot intervals, from outby the loading point; provided, that in case of a shaft mine, such lifeline cords shall extend from outby to the loading point to the bottom of the designated escape shaft. Such lifeline cord shall be of ***fireproof material***[~~durable construction~~] sufficient to allow miners to see and to use effectively to guide themselves out of the mine in the event of an emergency.

Section 20. KRS 352.145 is amended to read as follows:

(1) No employee of a surface coal mining operation shall be assigned, allowed, or required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.

(2) At stockpiles with underground feeders or draw-off tunnels, the licensee shall install and maintain a visible warning device that shall be activated when the feeders are in operation.

(3) The operator's cab of all equipment being operated on or in the immediate area of a stockpile with underground feeders or draw-off tunnels shall be enclosed by a compartment and shall be furnished with a self-contained self-rescuer that is capable of providing oxygen for a period of not less than one (1) hour.

(4) On all haulage roadways, berms, guardrails, concrete barriers, or other suitable devices shall be installed in such a manner that they extend to at least the mid-wheel height of the highest vehicle or equipment that regularly travels that type of roadway.

(5) Preshift examinations of the area shall be performed by the mine foreman or superintendent of every working place and adjacent places to the workings, the roadway traveled by the miners during the shift, and the equipment to be operated by the miner during the shift. All preshift examinations shall include a preoperational check of equipment to be used by the miners during the shift. All preoperational checks shall be recorded, and, if a hazard is found to exist on any item of equipment that would render the equipment unsafe to operate, then the mine manager or superintendent performing the inspection shall make a report of the hazard in the record book. The record book shall be kept at the mine office at all times and open for inspection.

Section 21. KRS 352.150 is amended to read as follows:

(1) After June 16, 1972, on single-track haulage roads in mines, which the persons employed in the mine must use while performing their work or while traveling on foot to and from their work, there shall be places of refuge on one (1) side not less than five (5) feet in depth from the side of the mine car, and five (5) feet wide, and not more than ninety (90) feet apart. Refuge holes of the same dimensions shall also be provided at switch throws.

(2) Special places of refuge are not required on haulage roads on which room necks or breakthroughs occur at regular intervals not exceeding ninety (90) feet, and thus furnish places of refuge, or on haulage roads in which the track is so laid as to give a minimum clearance on one (1) side of not less than thirty (30) inches from the side of any haulage engine or any mine car, the clearance to be on the side of the road opposite that upon which electric wires are strung, if electric wires are strung in the road.

(3) No unauthorized person shall travel on foot to or from work upon any haulage road or slope where transportation is by track, when other roads in proper condition for travel are available.

(4) On all main haulage roads where hauling is done by machinery the mine foreman shall provide a proper system of signals,

and a conspicuous light or marker approved by the commissioner on the front and rear of every trip or train of cars when in motion in the mine.

(5) Mantrips shall be operated at safe speeds consistent with the condition of roads and type of equipment used and shall be so controlled that they can be stopped within the limits of visibility, in no event at a speed in excess of twelve (12) miles per hour.

(6) Each mantrip consisting of more than one (1) mine car of men shall be under the charge of a certified official, and it shall be operated independently of any loaded trip of coal or other material.

(7) Cars on the mantrip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided.

(8) No material or tools except small hand tools shall be transported in the same car with men on any mantrip unless in a separate, enclosed compartment of the car, and all persons shall ride inside of mantrip cars, except the motorman and brakeman or trip rider.

(9) Men shall not load or unload before the cars in which they are to ride or are riding come to a full stop, and men shall proceed in an orderly manner to and from mantrips.

(10) A waiting station shall be provided where men are required to wait for mantrips or man-cages. It shall have sufficient room, ample clearance from moving equipment, and adequate seating facilities.

(11) Power wires shall be guarded effectively at mantrip stations where there is a possibility of any person coming in contact with energized electric wiring while loading or unloading from the mantrip.

(12) Cars used for transporting men on slopes shall be equipped with a safety device capable of stopping the trip in event of failure of the rope or couplings. The device shall be approved by the commissioner.

(13) Where belts are used for transporting men, unless the commissioner finds that a safety hazard exists which cannot be corrected, the belt transport will be allowed, and a minimum clearance of eighteen (18) inches shall be maintained between the belt and the roof or cross bars, projecting equipment, cap pieces, overhead cables, wiring, and other objects; but where the height of the coal bed permits, the clearance shall not be less than twenty-four (24) inches.

(14) Unless a greater speed is allowed by special permission from the commissioner, in which event the conditions, limitations, and rules imposed in connection with the grant of permission shall be observed, the belt speed shall not exceed two hundred fifty (250) feet per minute where the minimum overhead clearance is eighteen (18) inches, or three hundred (300) feet per minute when the minimum overhead clearance is twenty-four (24) inches, while men are loading, unloading, or being transported.

(15) The space between men riding on a belt line shall not be less than six (6) feet.

(16) Loading and unloading stations shall be illuminated properly.

(17) A certified official or some other supervisory personnel appointed by the mine foreman shall supervise all mantrips.

(18) At all mines utilizing track haulage or transportation, there shall be developed a safe and uniform system of traveling through all switch points to prevent collisions. This system shall be designed in a manner which ensures that all persons can determine who has the right of way in all circumstances. Information concerning this system shall be included in annual retraining.

(19) Efficient equipment, either mobile or self-propelled, equipped with sufficient first-aid equipment and supplies, shall be available on all underground sections where men are present to transport injured workers to the surface.

(20) At those mines that do not have a contract or other arrangement for providing ambulance service, a 4-wheel-drive vehicle or other vehicle suitable to the terrain equipped with sufficient first-aid equipment and supplies shall be available to the mines or preparation facilities for the transportation of injured workers. At those mines that have a contract or other arrangement for providing ambulance service, the access road to the mine or preparation facility shall be kept in a condition which is passable by the ambulance vehicle or other emergency rescue equipment.

(21) The commissioner shall be empowered to draft additional administrative regulations providing for transportation of men when necessary.

(22) An efficient means of transportation shall be available at all times on the working section while miners are working, which can be used to transport miners to the surface in the event of an accident or other emergency.

Section 22. KRS 352.170 is amended to read as follows:

(1) All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.

(2) All ***miners working underground during a shift, the*** mine foremen***,*** and fire bosses employed in mines shall carry approved gas detection devices for the purpose of detecting the presence of explosive and dangerous gases and deficiencies of oxygen.

(3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, and the licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

Section 23. KRS 352.180 is amended to read as follows:

(1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases, or other serious accident occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.

(2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.

(3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.

(4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

(5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:

- (a) Were working in the immediate area of the accident; or
- (b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.

(6) The post-accident testing permitted by subsection (5) of this section shall:

- (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
- (b) Be paid for by the Office of Mine Safety and Licensing; and
- (c) Be performed on samples obtained within eight (8) hours of the accident.

(7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.

(8) The commissioner or his or her authorized representative may compel the attendance of witnesses and administer oaths to investigate allegations of unsafe mining conditions or violations of mining laws even if no accident or injury has occurred.

Section 24. KRS 352.220 is amended to read as follows:

For purposes of this section, "approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals or accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration; "suitable" means a design, material, or installation that meets the requirements of its intended use or that is accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration.

(1) The following shall apply to underground installations:

- (a) Nonconductive or insulated materials shall be used when trailing cables or high voltage feeder cables are suspended;
- (b) Suitable circuit-interrupting devices shall be provided for all power circuits and equipment at the mine;
- (c) All power wires and cables shall be properly insulated and protected by proper installation or guarding;
- (d) Ground wires for circuits shall have a total cross-sectional area of not less than one-half (1/2) the power conductor;
- (e) Extra length or long trailing cables shall be spread out in long open loops or in a figure-eight configuration on a clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables suspended in long open loops shall be acceptable;
- (f) One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment. Splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Splices made in cables shall provide continuity of all components;
- (g) Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the

grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;

(h) The frames of hand-held electrically driven tools shall be properly grounded or double-insulated by design. The frames of all pumps shall be properly grounded. Hand-held tools and all pumps shall be properly protected by suitable fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;

(i) All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work under or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with other circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal conductor not smaller than No. 10 (AWG) or an insulated external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit. All cables shall be suitable for the current and voltage and shall be properly maintained;

(j) Power circuits shall have suitable disconnecting devices and short-circuit protective devices at or near the supply end of the circuit. Suitable disconnecting devices shall be provided at the beginning of all branch circuits;

(k) Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps shall be housed in noncombustible structures or areas or be equipped with a suitable fire suppression system.

1. When a noncombustible structure or area is used, these installations shall be:
    a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
    b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system (AMS) installed and operated in a suitable manner. Monitoring of intake air ventilating battery charging stations shall be done with sensors not affected by hydrogen; or
    c. Ventilated with intake air and equipped with sensors to monitor for heat, carbon monoxide, or smoke.
2. The sensors used for monitoring shall de-energize power to the installation, activate a visual and audible alarm located outside of and on the intake side of the enclosure, and activate doors that will automatically close when any of the following occurs:
    a. The temperature in noncombustible structure reaches one hundred sixty-five (165) degrees Fahrenheit;
    b. The carbon monoxide concentration reaches ten (10) parts per million above the ambient level for the area; or
    c. The optical density of smoke reaches 0.022 per meter.
3. At least every thirty (30) days, sensors installed to monitor for carbon monoxide shall be calibrated with a known concentration of carbon monoxide and air sufficient to activate the closing door, or each smoke sensor shall be tested to determine that it functions correctly.
4. When a fire suppression system is used, the installation shall be:
    a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
    b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system installed and operated in a suitable manner.
5. All monitoring systems used to monitor intake air ventilating battery charging stations under subparagraphs 1. and 4. of this paragraph shall be done with sensors not affected by hydrogen.
6. This paragraph shall not apply to:
    a. Rectifiers and power centers with transformers that either are dry-type or contain nonflammable liquid, if they are located at or near the section and are moved as the working section advances or retreats;
    b. Submersible pumps;
    c. Permissible pumps, and associated permissible switchgear;
    d. Pumps located on or near the section that are moved as the working section advances or retreats; or
    e. Small portable pumps. Underground stations containing transformers or circuit breakers filled with flammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture occurs, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with nonflammable liquid or inert gas.

Portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places outby the last open crosscuts;

(l) Electrically powered locomotives shall be provided with suitable electrical protective devices;

(m) Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with start and stop controls at intervals not to exceed one thousand (1000) feet. The controls shall be properly installed and positioned so as to be readily accessible;

(n) Communication wires and cables shall be adequately insulated and protected by proper installation or guarding;

(o) Telephone wires shall be provided with lightening arresters where the wires enter the mine and at the buildings on the surface;

(p) Insulating mats shall be placed in front of disconnecting devices and all electrical installations where required;

(q) Ground wires in trailing cables shall be tested weekly for open circuit and high resistance;

(r) Power circuits in tipples, buildings, cleaning plants, etc., and all underground electrical circuits shall be deenergized when not in use over a long period;

(s) All underground power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by the persons who installed them, or if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustment;

(t) Where electric circuits cross over or pass under belt conveyors the wiring shall be suitably protected; and

(u) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust.

(2) The following shall apply to trolley wires and trolley feeder wires:

(a) On all haulage roads, landings, and partings where persons are required to regularly work or pass under bare power wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;

(b) All machine feed conductors shall be placed on suitable insulators which shall be so placed as to prevent the conductors coming in contact with combustible or conductive materials;

(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected against persons coming in contact therewith, as required by paragraph (a) of this subsection;

(d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as required by paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;

(e) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track; and

(f) All mine locomotives shall be fused or otherwise protected at the switch or at the nip.

(3) The following shall apply to surface installations:

(a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;

(b) Electrical circuits, wires, and cables shall be supported on insulators except when cables, which are of a design that can be safely used without insulators, are used;

(c) Lightning arresters shall be installed on all ungrounded, exposed power conductors and telephone wires entering a mine, regardless of voltage. Overload protection and disconnect switches of suitable sizes and ratings approved by the department shall also be provided, except that they shall not be required of telephone wires;

(d) Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;

(e) All transformer tanks shall be effectively grounded;

(f) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust that create a fire hazard;

(g) Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height; and

(h) All surface power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by persons who installed them or, if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments. When disconnects for stationary low and medium voltage equipment that do not provide visual evidence that the power is disconnected are used, an adequately rated voltage detector shall be used to test each phase conductor or circuit part to verify they are de-energized before any work is performed. When practical, confirmation that the voltage detector is operating satisfactorily shall be made before each test.

(4) (a) Notwithstanding any provisions of subsections (1), (2), or (3) of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1), (2), or (3) of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1), (2), or (3) of this section; and

(b) The department may prescribe administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

(5) At least one (1) certified electrician shall be employed on every working shift at all underground and surface mines.

The Committee Substitute to **HB 207** is as follows:

HB 207, AN ACT relating to mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.025 is amended to read as follows:

The department shall:

(1) Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. These criteria shall include but not be limited to the following:

(a) In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification~~[for up to ten (10) working days]~~ for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;

(b) In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars ($10,000); and

(c) In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;

(2) Notwithstanding KRS 351.070(15), promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises for violations of mine safety laws that place miners in imminent danger of serious injury or death. These penalties shall include but not be limited to the revocation or suspension of the mine's license, the probation of a mine's license~~[for a first offense]~~, or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;

(3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;

(4) Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration (MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners ***and for reports made to the Office of Mine Safety and Licensing under KRS 351.193***;

(5) Jointly with the Mine Safety Review Commission establish a process for referring allegations of mine safety violations to

the Mine Safety Review Commission for adjudication and for the hearing of appeals from penalties imposed by the Office of Mine Safety and Licensing, and the underlying violation, authorized under KRS 351.070(15); and

(6) Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.

Section 2. KRS 351.030 is amended to read as follows:

(1) All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B ***and this section***. Following the hearing, the department shall decide each matter in controversy. No person shall be discharged or otherwise discriminated against by his or her employer for testifying, or for his failure to testify, at these hearings.

(2) The executor or administrator of a deceased miner's estate, or his or her designee, in the case of a fatality, miners that are injured as a result of an accident, and miners that are significantly affected by the conduct that gave rise to a disciplinary proceeding shall be granted the right of intervention in the penalty phase of that proceeding. The petition for intervention shall be made in accordance with KRS 13B.060(3). All hearings before the Mine Safety Review Commission shall be open proceedings. Any party with pertinent information regarding a mine accident may submit that information directly to the Office of Mine Safety and Licensing's chief accident investigator.

Section 3. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.

(2) The secretary shall appoint an executive director to the Office of Mine Safety and Licensing in accordance with KRS 224.10-020(2) and prescribe his powers and duties.

(3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.

(4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.

(5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.

(6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.

(7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.

(8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.

(9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.

(10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

(11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.

(12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.

(13) The secretary of the Environmental and Public Protection Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.

(14) The commissioner shall ascertain the cause or causes of any coal mining fatality ***and any accidents involving serious physical injury*** and, within sixty (60) days of completion of the investigation, shall report his or her findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. ***Accident interviews conducted by the Office of Mine Safety and Licensing shall be closed proceedings.*** The recommendations may include without being limited to the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality. ***Effective January 1, 2009, the Office of Mine Safety and Licensing shall appoint an existing full-time employee to act as a family liaison. The family liaison shall have the responsibility during an accident investigation to keep the families of miners informed of the progress and findings of***

the accident investigation. The family liaison shall be trained in mining and in grief counseling.

(15) The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans***, mine seal construction plans, unsafe working conditions,*** and mine ventilation plans that could lead to imminent danger or serious physical injury. The Environmental and Public Protection Cabinet shall promulgate administrative regulations within ninety (90) days of July 12, 2006, providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars ($5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under KRS 351.025(2) for imposing penalties against licensed facilities.

Section 4. KRS 351.090 is amended to read as follows:

(1) The Governor shall appoint an adequate number of mine inspectors to ensure at least two (2) inspections annually ***at all surface mines***, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners; except the commissioner shall inspect all underground coal mines not less than ***six (6)***[~~three (3)~~] times annually. ***Two (2) of the six (6) general inspections of underground mines shall additionally include a full electrical inspection.*** One (1) or more of the appointees ***shall***[~~may~~] be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.

(2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.

(3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person appointed as mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

(4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.

(6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

(8) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall provide authorization to the Office of Mine Safety and Licensing to perform a criminal background check by means of a fingerprint check by the State Police. The results of the state criminal background check shall be sent to the executive director of the Office of Mine Safety and Licensing. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

Section 5. KRS 351.1041 is amended to read as follows:

(1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Environmental and Public Protection Cabinet, Office of the Secretary, for administrative purposes. The commission shall:

(a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;

(b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations, ***allegations of unsafe working conditions,*** violation of a miner's drug- and alcohol-free condition of certification, or supervisory personnel's failure to immediately report a fatal accident or an accident involving serious physical injury to the commission for adjudication;

(c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:

1. All reports of coal mining fatalities ***and serious physical injuries*** provided by the commissioner under KRS 351.070(14);
2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious physical injury or death resulting from the violations;
3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and
4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.

(2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.

(3) The members of the Mine Safety Review Commission shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in conducting the business of the commission.

(4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.

(5) The Governor may remove any member for good cause, including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.

(6) The commission shall meet on the call of the chair or a majority of the members of the commission.

(7) The Environmental and Public Protection Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Environmental and Public Protection Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B ***and this chapter***, notwithstanding the provisions of KRS 13B.030(2)(b).

(8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.

(9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.

(10) The secretary of the Environmental and Public Protection Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This may include an executive director, general counsel, or other administrative support positions, to be appointed in accordance with KRS 12.010 and 12.050.

Section 6. KRS 351.1055 is amended to read as follows:

(1) There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Environmental and Public Protection Cabinet.

(2) The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations ***annually*** to the executive director of the Office of Mine Safety and Licensing ***and the Interim Joint Committee on Agriculture and Natural Resources*** regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. ***Subject to budgetary constraints and approval by the United States Mine Safety and Health Administration (MSHA), if there is no existing law to the contrary, the commissioner may implement the recommendations of the panel.*** Based on the recommendations provided by the panel, the executive director shall comprise a list of commercially available mine safety equipment, including wireless tracking and communications devices that may be approved for use by coal miners.

(3) The panel shall meet at the call of the chair. The chair of the panel shall be the executive director of mine safety and licensing. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.

(4) The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after July 12, 2006:

(a) One (1) member shall represent the National Institute of Occupational Safety and Health;

(b) One (1) member shall represent the federal Mine Safety and Health Administration;

(c) One (1) member shall represent the coal industry;

(d) One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;

(e) One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and

(f) One (1) member shall be the executive director of the Office of Mine Safety and Licensing.

(5) The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. Periodically, the panel shall review and make recommendations to the executive director on changes to or innovations in mine safety equipment that could be deployed in coal mines.

Section 7. KRS 351.106 is amended to read as follows:

(1) The Mining Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least sixteen (16) hours of annual retraining and reeducation for all certified persons, of which thirty (30) minutes annually shall be dedicated to alcohol and substance abuse education. ***Effective January 1, 2009, in addition, six (6) hours of annual training on changes in mine safety laws, safe retreat mining practices, disciplinary cases litigated before the Mine Safety Review Commission, changes in mine safety technology, and ways to improve safe working procedures shall be required for all mine foremen. This annual training for mine foremen shall be provided exclusively by the Office of Mine Safety and Licensing.***

(2) One (1) hour of initial substance abuse training and education shall be required as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement shall not apply to certified persons who received the one (1) hour initial substance abuse training and education as part of their forty (40) hour or twenty-four (24) hour new miner training.

(3) In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to receive an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.

(4) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least sixteen (16) hours of retraining and reeducation.

(5) Newly hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.

(6) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.

(7) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.

(8) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.

(9) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn immediately from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.

(10) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.

(11) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.

(12) The secretary may promulgate administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include but not be limited to implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.

(13) The commissioner shall keep and maintain current records on all certified miners, all of which shall be maintained by

computer for ready access. ***The commissioner shall not grant certification to any person that, at the time of application, had his or her miner certification, foreman certification, electrician certification, or any other mining specialty certification suspended or revoked by another state. If a person has his or her miner certification, foreman certification, electrician certification, or other mining specialty certification probated in another state, the commissioner or the Mining Board may, at his or its discretion, grant the equivalent certification. However, that certification shall be placed on probation in Kentucky until the probationary period in the other state has expired.***

(14) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.

(15) The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.

(16) All training and education required by this section may be conducted in classrooms, on the job, or in simulated mines.

Section 8. KRS 351.127 is amended to read as follows:

(1) ~~[A]~~Certified emergency medical ***technicians***~~[technician]~~ or mine emergency ***technicians***~~[technician]~~ shall be employed at every licensed coal mine whose employees are actively engaged in the extraction, production, or preparation of coal. Persons employed as mine emergency technicians shall be trained in a manner established in an administrative regulation promulgated by the department. Persons seeking certification as a mine emergency medical technician or mine emergency technician shall be subject to the following additional requirements:

(a) All persons seeking certification as a mine emergency technician shall demonstrate drug- and alcohol-free status in accordance with KRS 351.182 and 351.183;

(b) The drug and alcohol testing for those seeking certification as mine emergency technicians shall be administered prior to the examination for the certification, in accordance with KRS 351.182 and 351.183; and

(c) Certification as a mine emergency technician shall not be issued until the results of the drug and alcohol testing have been obtained. Notification shall be given to the person in accordance with KRS 351.184.

(2) These emergency medical technicians or mine emergency technicians shall be employed in the following manner:

(a) ***At least two (2)***~~[One (1)]~~ emergency medical~~[technician]~~ or mine emergency ***technicians***~~[technician]~~ shall be employed on every shift ***engaged in the production of coal, and at least one (1) emergency medical or mine emergency technician shall be employed on every nonproduction shift***~~[with a workforce of up to fifty (50) employees]~~;

(b) ***For underground mines, at least one (1) of the two (2) emergency or mine emergency technicians shall be underground at all times while miners are working in the mines.*** An additional emergency medical technician or mine emergency technician shall be employed for every additional fifty (50), or any portion thereof, employees per shift who are actively engaged in the extraction, production, or preparation of coal.

(3) If these emergency medical technicians or mine emergency technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(4) If the licensee selects existing employees to be trained as emergency medical technicians or mine emergency technicians, the employees selected shall be paid their regular wages during training.

(5) Certified emergency medical technicians and mine emergency technicians shall receive annual retraining in the manner established in an administrative regulation promulgated by the department, during which they shall receive their regular wages.

Section 9. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each underground coal mine in his district at least ***six (6)***~~[three (3)]~~ times a year and all other mines once every

six (6) months. ***For underground coal mines, two (2) of the six (6) general inspections conducted annually shall additionally include a full electrical inspection.*** The commissioner may cause inspections more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal including any overland coal belts; and

(8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Section 10. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). The license shall be issued when the following are properly submitted to the commissioner:

  (a) The annual report of the licensee and the annual mine map required in KRS 351.170 and 352.450;

  (b) A certification from the executive director of the Office of Workers' Claims that the licensee has provided positive proof of compliance with the provisions of KRS Chapter 342;

  (c) A certification from the commissioner of the Department of Revenue that the licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;

  (d) ***Mine seal construction plan;***

  (e) Roof control plan;

  (f) The ventilation plan required in KRS 352.020; and

  (g)[~~(e)~~]An approved emergency action plan required by KRS 352.640.

(5) The department shall immediately revoke any license if the department receives:

  (a) Withdrawal of the certification of compliance with KRS Chapter 342 issued by the executive director of the Office of Workers' Claims; or

  (b) Notice from the commissioner of the Department of Revenue that the licensee is a "delinquent taxpayer" as defined in KRS Chapter 131.

(6) The commissioner, the executive director of the Office of Mine Safety and Licensing, or the mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(7) The department shall be authorized to seek injunctive relief for any violation of this section. Revocation of a license by the department shall be an administrative function of the department. Appeals from revocation by the department shall be brought in Franklin Circuit Court.

(8) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the commissioner of revenue.

(9) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 11. KRS 351.194 is amended to read as follows:

(1) The Mine Safety Review Commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish administrative hearings procedures to be followed in determining if violations of mine safety laws, including, but not limited to, violations that meet the criteria established in KRS 351.025(1) or (2), have occurred and to establish a

process to review recommended orders from any hearing officers acting on behalf of the commission. The procedures shall follow the requirements of KRS Chapter 13B ***and this chapter***.

(2) The chair or a majority of the Mine Safety Review Commission may convene a meeting of the commission at which it shall consider whether to schedule a hearing regarding any licensee, coal operation, or other person involved in the mining of coal.

(3) If the commission determines that there is probable cause to believe that the licensee, coal operation, or other person against whom the department has made allegations of unsafe work practices or other violation of applicable law is guilty of an alleged violation, the commission shall schedule a hearing at which the department shall offer evidence in support of the allegations made by it. The licensee, coal operation, or other person against whom the allegations are made shall be given not less than twenty (20) days' written notice of the charges against him, together with the date, time, and place at which the charges shall be heard, and of his opportunity to be represented by counsel, produce evidence and witnesses on his behalf, and examine the evidence and documents that may be produced against him. The commission may also be represented by counsel and shall not be bound by the technical rules of evidence, but its order shall be based upon competent evidence. Any licensee or other person summoned to appear at a hearing in the manner established in this subsection may, in writing, waive the notice required to be given to him.

(4) The commission may proceed with its hearing of charges made by the department against any licensee, coal operation, or other person who, after being duly notified in accordance with the requirements of this section, fails to appear at or participate in the hearing and who fails to assert any legitimate basis for the failure.

(5) Within ninety (90) days after hearing, the commission shall issue an order in which it sets out its determinations concerning each matter coming before it. Copies of the order shall be provided to all parties to the hearing. The department shall carry out or enforce, as appropriate, the order of the commission, which may include, though not be limited to, the imposition of civil penalties, revocation, suspension, or probation of the mine license or the miner's certification.

(6) The commission may modify a civil penalty or fine established under this chapter, under criteria established by the commission by administrative regulations.

(7) In assessing monetary penalties within the limits provided in KRS 351.025, the commission shall consider the operator's history of previous violations, the appropriateness of the penalty to the size of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation, and whether a penalty has been imposed by the Federal Mine Safety and Health Act for a violation that arose out of the same set of facts or circumstances.

(8) An appeal of an order of the commission shall be filed in the Franklin Circuit Court within thirty (30) days of entry of the order.

Section 12. KRS 352.020 is amended to read as follows:

(1) A mine ventilation plan and any revision of an existing mine ventilation plan shall be suitable to the ventilation conditions and mining system of each mine. The mine ventilation plan and any revisions to the mine ventilation plan approved by the United States Mine Safety and Health Administration shall be submitted to the executive director or his or her authorized representative and incorporated into the license. All mine ventilation plans shall be set forth in printed form. The mine ventilation plan shall require the air quality throughout the mine to contain at least nineteen and one-half percent (19.5%) oxygen and not more than one-half of one percent (0.5%) of carbon dioxide, and the volume and velocity of the air current shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases and dust, smoke, and fumes. A copy of the mine ventilation plan and any revisions to that plan shall be available to the miners and their representatives.

(2) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

(3) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current

shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases.

(4) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (3) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.

(5) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air. Return-air courses shall not be designated as primary escapeways.

(6) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner or his authorized representative may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air or the travel of equipment, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.

(7) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.

(8) The ventilation plan shall require all fans utilized in the ventilation plan to be in operation ***unless the fan must be turned off for repairs or maintenance, during which time all persons must be withdrawn from the mine. After the mine fan is restarted following the completion of repairs or maintenance, it must be in operation for a sufficient period to ensure air quality and the equalization of the mine atmosphere***[~~for a sufficient period to ensure air quality and equalization of the mine atmosphere prior to the entry of workers into underground areas~~].

Section 13. KRS 352.090 is amended to read as follows:

(1) All unused workings and abandoned parts of mines shall be protected by safeguards that will prevent the accumulation or overflow of gas, and all avenues leading thereto shall be so arranged and conducted as to give warning to all persons of the danger of entering, and notice shall be posted warning all unauthorized persons not to enter these parts of the mine. If the area cannot be adequately ventilated, and examined, or evaluated it shall be sealed in a timely manner.

(2) No person, except persons authorized to make examination thereof, shall enter any unused or abandoned part of a mine after the warning has been posted.

(3) Where the practice is to seal abandoned workings, the sealing shall be done ***in accordance with a mine seal construction plan submitted to the Office of Mine Safety and Licensing. Seal construction shall be done*** immediately in an effective manner with noncombustible material. In every sealed area, one (1) or more of the seals shall be fitted with a pipe and cap or valve to permit the gases behind the seals to be sampled and also to provide a means of determining any existing hydrostatic pressure. When required by the mine inspector and commissioner, drill holes shall be extended from the surface to the sealed area, or vent pipes shall be extended from the sealed area to a return air course. Sufficient ventilation shall be provided at each seal to prevent dangerous gases from accumulating.

Section 14. KRS 352.133 is amended to read as follows:

(1) All underground miners shall be provided with an approved self-contained self-rescuer device and shall have that device within twenty-five (25) feet of them at all times. The self-contained self-rescuer shall be provided to the miners by the licensee at no cost to the miners.

(2) In addition to the requirements for self-contained self-rescuers set forth in this section, all licensed premises shall maintain caches of self-contained self-rescuer devices which shall be stored in locations readily accessible to the primary and secondary escapeways or provide proof of an order for self-contained self-rescuers through the submission of a valid purchase order that clearly names the vendor, contact information for the vendor, the number of devices purchased, and the date of the order, which shall not be later than thirty (30) days after July 12, 2006. In all cases, the self-contained self-rescuers shall be in place by July 1, 2007, or shall be extended by the commissioner upon substantiated proof of unavailability.

(a) The caches shall be maintained in sufficient numbers and locations determined in accordance with the most recent rules, standards, and regulations issued by the United States Mine Safety and Health Administration ***and this section***.

(b) The caches shall be maintained in storage units capable of protecting the self-contained self-rescuers from water, dust, and any other condition which will cause deterioration of the self-contained self-rescuers.

(c) The storage unit locations shall have reflective signs that read "SELF-RESCUERS" conspicuously posted as to be visible from the primary and secondary escapeways.[~~ Intrinsically safe strobe light devices also shall be attached to~~

~~the storage unit. The strobe light devices may operate continuously or shall be capable of activation in the event of a mine emergency.~~]

(d) In addition to the requirements set forth in this section for self-contained self-rescuers, the mine operator shall provide for each person who is underground at least one (1) additional self-contained self-rescuer device which provides protection for a period of one (1) hour or longer, to cover all persons in the mine.

(e) If a mantrip or mobile equipment is used to enter or exit the mine, additional self-contained self-rescuer devices, each of which provides protection for a period of one (1) hour or longer, shall be available for all persons who use the transportation from portal to portal.

(3) It shall be a Class D felony for any person to remove a self-rescuer from the cache for purposes other than use during an emergency, or for repair, maintenance, or replacement or as authorized by the licensee.

Section 15. KRS 352.135 is amended to read as follows:

In all designated escapeways, each operator shall provide lifeline cords, with attached reflective material at not to exceed twenty-five (25) foot intervals and devices indicating the direction to the surface at not to exceed one hundred (100) foot intervals, from outby the loading point; provided, that in case of a shaft mine, such lifeline cords shall extend from outby to the loading point to the bottom of the designated escape shaft. Such lifeline cord shall be of ***flame resistant material***[~~durable construction~~] sufficient to allow miners to see and to use effectively to guide themselves out of the mine in the event of an emergency. ***All lifeline cords shall be made of flame resistant material within one hundred eighty (180) days of the effective date of this section.***

Section 16. KRS 352.145 is amended to read as follows:

(1) No employee of a surface coal mining operation shall be assigned, allowed, or required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.

(2) At stockpiles with underground feeders or draw-off tunnels, the licensee shall install and maintain a visible warning device that shall be activated when the feeders are in operation.

(3) The operator's cab of all equipment being operated on or in the immediate area of a stockpile with underground feeders or draw-off tunnels shall be enclosed by a compartment and shall be furnished with a self-contained self-rescuer that is capable of providing oxygen for a period of not less than one (1) hour.

(4) On all haulage roadways, berms, guardrails, concrete barriers, or other suitable devices shall be installed in such a manner that they extend to at least the mid-wheel height of the highest vehicle or equipment that regularly travels that type of roadway.

(5) A surface preshift examination shall be conducted within three (3) hours prior to men working. A certified foreman shall check the areas where men are required to work or travel during the shift. Roadways, pit areas, highwalls, and dumping points shall be checked. If any hazardous conditions are found, they shall be corrected prior to men working in the area. A suitable record book shall be kept in the control of the mine foreman. Immediately after the examination of the mine or portion thereof, the mine foreman shall enter and sign a record of the examination in the book with ink. The record shall clearly show any danger discovered at the mine, and the action taken to correct the dangerous conditions. The record book shall, at all times during the working hours, be accessible to the mine inspector or analyst and the miner or his representative.

(6) All equipment operators shall conduct a preoperational check of their equipment. All preoperational checks shall be recorded by the equipment operator and kept with the equipment and, if a hazard is found to exist on any piece of equipment that would render it unsafe to operate, the hazardous condition shall be reported to the mine foreman or mine superintendent. All appropriate repairs shall be made before the equipment is put back into operation, except for moving the equipment to a safe place for repairs. The record book of all hazardous conditions and repairs made shall be kept in the control of the mine foreman or mine superintendent at all times.

Section 17. KRS 352.170 is amended to read as follows:

(1) All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.

(2) ***A mine operator shall provide an MSHA-approved, handheld, multi-gas detector that can measure methane, oxygen, and carbon monoxide to each group of underground miners and to each person who works alone, such as pumpers, examiners, and outby miners. Miners shall be trained in the proper use and calibration of the multi-gas detectors and shall document that the training has been provided. Signs shall be prominently posted at places miners gather with instructions on the proper use of multi-gas detectors***[~~All mine foremen and fire bosses employed in mines shall carry approved gas detection devices for the purpose of detecting the presence of explosive and dangerous gases and deficiencies of oxygen~~].

(3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, and the licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

Section 18. KRS 352.180 is amended to read as follows:

(1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases[~~, or other serious accident~~] occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.

(2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.

(3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.

(4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

(5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:

(a) Were working in the immediate area of the accident; or

(b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.

(6) The post-accident testing permitted by subsection (5) of this section shall:

(a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;

(b) Be paid for by the Office of Mine Safety and Licensing; and

(c) Be performed on samples obtained within eight (8) hours of the accident.

(7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.

Section 19. KRS 352.180 is amended to read as follows:

(1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases, or other serious accident occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.

(2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.

(3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.

(4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

(5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:

(a) Were working in the immediate area of the accident; or

(b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.

(6) The post-accident testing permitted by subsection (5) of this section shall:

(a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;

(b) Be paid for by the Office of Mine Safety and Licensing; and

(c) Be performed on samples obtained within eight (8) hours of the accident.

(7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.

(8) The commissioner or his or her authorized representative may compel the attendance of witnesses and administer oaths to investigate allegations of unsafe mining conditions or violations of mining laws even if no accident or injury has occurred.

Section 20. KRS 352.201 is amended to read as follows:

(1) The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revision thereof suitable to the roof conditions and mining system of each mine and approved by the commissioner or his authorized representative shall be adopted and set out in printed form within six (6) months after June 16, 1972, and shall be kept on file in the district office of the district where the mine is located. The plan shall show the type of support and spacing approved by the commissioner. No person shall proceed beyond the last permanent support unless adequate temporary support is provided. A copy of the plan shall be furnished the commissioner or his authorized representative and shall be available to the miners and their representatives.

(2) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(3) The licensee, in accordance with the approved plan, shall provide at or near each working face and at other locations in the mine as the commissioner or his authorized representative may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in other circumstances that may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(4) Roof bolt recovery for reuse shall not be permitted.

(5) Where workmen are exposed to danger from falls of roof, face, and ribs they shall examine and test the roof, face, and ribs before any other work is performed or machinery is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

(6) Within forty-eight (48) hours before the commencement of any retreat mining or pillaring operations, the mine operator shall notify the Office of Mine Safety and Licensing of its intention of beginning or resuming retreat mining or pillaring. The Office of Mine Safety and Licensing shall document such notification in writing. Upon such notification from a mine operator, and before retreat mining or pillaring operations can begin, the office shall ensure that every person who will be participating in the retreat mining operations is trained in the operator's pillar removal plan.

Section 21. KRS 352.220 is amended to read as follows:

For purposes of this section, "approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals or accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration; "suitable" means a design, material, or installation that meets the requirements of its intended use or that is accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration.

(1) The following shall apply to underground installations:

(a) Nonconductive or insulated materials shall be used when trailing cables or high voltage feeder cables are suspended;

(b) Suitable circuit-interrupting devices shall be provided for all power circuits and equipment at the mine;

(c) All power wires and cables shall be properly insulated and protected by proper installation or guarding;

(d) Ground wires for circuits shall have a total cross-sectional area of not less than one-half (1/2) the power conductor;

(e) Extra length or long trailing cables shall be spread out in long open loops or in a figure-eight configuration on a clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables suspended in long open loops shall be acceptable;

(f) One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment. Splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Splices made in cables shall provide continuity of all components;

(g) Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;

(h) The frames of hand-held electrically driven tools shall be properly grounded or double-insulated by design. The frames of all pumps shall be properly grounded. Hand-held tools and all pumps shall be properly protected by suitable fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;

(i) All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work under or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with other circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal conductor not smaller than No. 10 (AWG) or an insulated external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit. All cables shall be suitable for the current and voltage and shall be properly maintained;

(j) Power circuits shall have suitable disconnecting devices and short-circuit protective devices at or near the supply end of the circuit. Suitable disconnecting devices shall be provided at the beginning of all branch circuits;

(k) Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps shall be housed in noncombustible structures or areas or be equipped with a suitable fire suppression system.

1. When a noncombustible structure or area is used, these installations shall be:
    a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
    b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system (AMS) installed and operated in a suitable manner. Monitoring of intake air ventilating battery charging stations shall be done with sensors not affected by hydrogen; or
    c. Ventilated with intake air and equipped with sensors to monitor for heat, carbon monoxide, or smoke.
2. The sensors used for monitoring shall de-energize power to the installation, activate a visual and audible alarm located outside of and on the intake side of the enclosure, and activate doors that will automatically close when any of the following occurs:
    a. The temperature in noncombustible structure reaches one hundred sixty-five (165) degrees Fahrenheit;
    b. The carbon monoxide concentration reaches ten (10) parts per million above the ambient level for the area; or
    c. The optical density of smoke reaches 0.022 per meter.
3. At least every thirty (30) days, sensors installed to monitor for carbon monoxide shall be calibrated with a known concentration of carbon monoxide and air sufficient to activate the closing door, or each smoke sensor shall be tested to determine that it functions correctly.
4. When a fire suppression system is used, the installation shall be:
    a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
    b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system installed and operated in a suitable manner.
5. All monitoring systems used to monitor intake air ventilating battery charging stations under subparagraphs 1. and 4. of this paragraph shall be done with sensors not affected by hydrogen.
6. This paragraph shall not apply to:
    a. Rectifiers and power centers with transformers that either are dry-type or contain nonflammable liquid, if they are located at or near the section and are moved as the working section advances or retreats;
    b. Submersible pumps;
    c. Permissible pumps, and associated permissible switchgear;
    d. Pumps located on or near the section that are moved as the working section advances or retreats; or

e. Small portable pumps. Underground stations containing transformers or circuit breakers filled with flammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture occurs, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with nonflammable liquid or inert gas. Portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places outby the last open crosscuts;

(l) Electrically powered locomotives shall be provided with suitable electrical protective devices;

(m) Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with start and stop controls at intervals not to exceed one thousand (1000) feet. The controls shall be properly installed and positioned so as to be readily accessible;

(n) Communication wires and cables shall be adequately insulated and protected by proper installation or guarding;

(o) Telephone wires shall be provided with lightening arresters where the wires enter the mine and at the buildings on the surface;

(p) Insulating mats shall be placed in front of disconnecting devices and all electrical installations where required;

(q) Ground wires in trailing cables shall be tested weekly for open circuit and high resistance;

(r) Power circuits in tipples, buildings, cleaning plants, etc., and all underground electrical circuits shall be deenergized when not in use over a long period;

(s) All underground power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by the persons who installed them, or if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustment;

(t) Where electric circuits cross over or pass under belt conveyors the wiring shall be suitably protected; and

(u) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust.

(2) The following shall apply to trolley wires and trolley feeder wires:

(a) On all haulage roads, landings, and partings where persons are required to regularly work or pass under bare power wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;

(b) All machine feed conductors shall be placed on suitable insulators which shall be so placed as to prevent the conductors coming in contact with combustible or conductive materials;

(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected against persons coming in contact therewith, as required by paragraph (a) of this subsection;

(d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as required by paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;

(e) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track; and

(f) All mine locomotives shall be fused or otherwise protected at the switch or at the nip.

(3) The following shall apply to surface installations:

(a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;

(b) Electrical circuits, wires, and cables shall be supported on insulators except when cables, which are of a design that can be safely used without insulators, are used;

(c) Lightning arresters shall be installed on all ungrounded, exposed power conductors and telephone wires entering a mine, regardless of voltage. Overload protection and disconnect switches of suitable sizes and ratings approved by the department shall also be provided, except that they shall not be required of telephone wires;

(d) Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;

(e) All transformer tanks shall be effectively grounded;

(f) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust that create a fire hazard;

(g) Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height; and

(h) All surface power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by persons who installed them or, if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments. When disconnects for stationary low and medium voltage equipment that do not provide visual evidence that the power is disconnected are used, an adequately rated voltage detector shall be used to test each phase conductor or circuit part to verify they are de-energized before any work is performed. When practical, confirmation that the voltage detector is operating satisfactorily shall be made before each test.

(4) (a) Notwithstanding any provisions of subsections (1), (2), or (3) of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1), (2), or (3) of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1), (2), or (3) of this section; and

(b) The department may prescribe administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

(5) If electrical work is to be performed, at least one (1) certified electrician shall be employed on the working shift where the work is to be performed at all underground mines and surface mines operating draglines or highwall miners.

Section 22. Sections 4 and 9 of this Act take effect January 1, 2009.

Section 23. Section 17 of this Act takes effect January 1, 2008.

HB 543, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "postproduction activities" means the reasonable costs and expenses of gathering, processing, dehydration, blending, treating, compressing, marketing, and transporting or otherwise preparing the gas for delivery to the point of first sale.

(2) Consistent with Kentucky common law, in the absence of provisions specifically addressing deductions, all oil and gas leases, contracts, and agreements pursuant to which royalties are calculated on a percentage basis shall only require payment of the royalty or other noncost-bearing interests on volumes of gas sold at the price actually received at the point of first sale, subject to the deduction of reasonable and necessary costs incurred or paid, directly or indirectly, for postproduction activities. This section shall not apply to leases requiring payment on a flat or fixed rate or amount.

(3) Notwithstanding any provision of Kentucky law to the contrary, an action for breach of any lease or contract for payment of oil and natural gas royalty or other noncost-bearing interest, or to recover for other failure to pay oil and natural gas royalty or other noncost-bearing interest, shall be commenced within five (5) years after the cause of action has accrued.

The Committee Substitute to **HB 543** is as follows:

HB 543, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "postproduction activities" means the reasonable costs and expenses of gathering, processing, dehydration, blending, treating, compressing, marketing, and transporting or otherwise preparing the gas for delivery to the point of first sale.

(2) Consistent with Kentucky common law, in the absence of provisions specifically addressing deductions, all existing and future oil and gas leases, contracts, and agreements pursuant to which royalties are calculated on a percentage basis shall only require payment of the royalty or other noncost-bearing interests on volumes of gas sold at the price actually received at the point of first sale, subject to the deduction of reasonable and necessary costs incurred or paid, directly or indirectly, for postproduction activities. This section shall not apply to leases requiring payment on a flat or fixed rate or amount.

(3) Notwithstanding any provision of Kentucky law to the contrary, an action for breach of any lease or contract for payment of oil and natural gas royalty or other noncost-bearing interest, or to recover for other failure to pay oil and natural gas royalty or other noncost-bearing interest, shall be commenced within five (5) years after the cause of action has accrued.

The Committee on Labor and Industry reported **HB 206,** with Committee Substitute attached thereto, **HB 398,** and **HB 437,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 206, AN ACT relating to tipped employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1). The minimum wage rates required under this chapter shall be adjusted in accordance with adjustments made in the federal minimum hourly rate. The adoption required in this subsection includes only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and does not include other wage rates, or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, adoption of the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter.

(2) Notwithstanding the provisions of subsection (1) of this section, for any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips from patrons or others, the employer may pay as a minimum ***sixty percent (60%) of the wage prescribed in subsection (1) of this section if the employer can***~~[not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203. The employer shall]~~ establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in ***subsection (1) of this section***~~[29 U.S.C. sec. 203]~~ was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by ***subsection (1) of this section***~~[29 U.S.C. sec. 203]~~. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

The Committee Substitute to **HB 206** is as follows:

HB 206, AN ACT relating to tipped employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1). The minimum wage rates required under this chapter shall be adjusted in accordance with adjustments made in the federal minimum hourly rate. The adoption required in this subsection includes only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and does not include other wage rates, or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, adoption of the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter.

(2) Notwithstanding the provisions of subsection (1) of this section, for any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips from patrons or others, the employer may pay as a minimum ***forty-two percent (42%) of the wage prescribed in subsection (1) of this section***~~[not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203]~~. The employer shall establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in ***subsection (1) of this section***~~[29 U.S.C. sec. 203]~~ was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by ***subsection (1) of this section***~~[29 U.S.C. sec. 203]~~. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

HB 398, AN ACT relating to workers' causes of action.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.610 is amended to read as follows:

(1) Every employer subject to this chapter shall be liable for compensation for injury, occupational disease, or death without regard to fault as a cause of the injury, occupational disease, or death.

(2) A contractor who subcontracts all or any part of a contract and his carrier shall be liable for the payment of compensation to the employees of the subcontractor unless the subcontractor primarily liable for the payment of such compensation has secured the payment of compensation as provided for in this chapter. Any contractor or his carrier who shall become liable for such compensation may recover the amount of such compensation paid and necessary expenses from the subcontractor primarily liable therefor. A person who contracts with another:

(a) To have work performed consisting of the removal, excavation, or drilling of soil, rock, or mineral, or the cutting or removal of timber from land; or

(b) To have work performed of a kind which is a regular or recurrent part of the work of the trade, business, occupation, or profession of such person

shall for the purposes of this section be deemed a contractor, and such other person a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

(3) Liability for compensation shall not apply where injury, occupational disease, or death to the employee was proximately caused primarily by voluntary intoxication as defined in KRS 501.010, or by his willful intention to injure or kill himself or another.

(4) If injury or death results to an employee ***because the***[~~ through the deliberate intention of his~~] employer ***has engaged in gross negligence, recklessness, or has violated a safety standard or regulation*** to produce such injury or death, the employee or ***the personal representative of the employee's estate, in the case of death, may pursue a civil action in tort against the employer. A tort claim arising from such gross negligence, recklessness, or violation of a safety standard or regulation shall not be barred by the exclusivity provisions under this chapter***[~~ his dependent as herein defined shall receive the amount provided in this chapter in a lump sum to be used, if desired, to prosecute the employer. The dependents may bring suit against the employer for any amount they desire. If injury or death results to an employee through the deliberate intention of his employer to produce such injury or death, the employee or his dependents may take under this chapter, or in lieu thereof, have a cause of action at law against the employer as if this chapter had not been passed, for such damage so sustained by the employee, his dependents or personal representatives as is recoverable at law. If a suit is brought under this subsection, all right to compensation under this chapter shall thereby be waived as to all persons. If a claim is made for the payment of compensation or any other benefit provided by this chapter, all rights to sue the employer for damages on account of such injury or death shall be waived as to all persons~~].

(5) Prior to issuing any building permit pursuant to KRS 198B.060(10), every local building official shall require proof of workers' compensation coverage from the builder before a permit is issued. A person who is exempt under the exception contained in KRS 342.650(2), and any contractor otherwise exempt from this chapter, shall so certify to the local building official, in writing and on a form prescribed by the executive director, in lieu of providing proof of workers' compensation coverage.

(6) Every employer subject to this chapter, at its principal office and such other locations where employees customarily report for payroll and personnel matters, shall post a notice stating the name of its workers' compensation insurance carrier and policy number, setting forth the means to access medical care for injuries, the employee's obligation to give notice of accidents, and such other matters concerning the employee's rights under this chapter as may be required by the executive director so as to afford every employee the opportunity to become informed about the employer's workers' compensation program. The format and contents of the notice shall be established by the executive director through administrative regulation, and copies shall be provided to the employer by its insurance carrier.

HB 437, AN ACT relating to unsolicited facsimile transmissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 3 of this Act:

(a) "Telephone facsimile machine" means equipment that has the capacity to transcribe text or image, or both, from:

1. Paper into an electronic signal and to transmit that signal over a regular telephone line; or

2. An electronic signal received over a regular telephone line onto paper;

(b) "Unsolicited advertisement by telephone facsimile machine" means material transmitted to a recipient by telephone facsimile machine that:

1. Advertises the commercial availability or quality of property, goods, services, or business, investment, or

employment opportunities; and

2. Is transmitted to a recipient without the recipient's prior express invitation or permission; and

(c) "Established business relationship" means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a business or residential subscriber with or without an exchange of consideration or payment, on the basis of an inquiry, application, purchase, or transaction by the business or residential subscriber regarding products or services offered by a person or entity, which relationship has not been previously terminated by either party.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to transmit or cause to be transmitted any unsolicited advertisement by telephone facsimile machine to a residential, business, voice-over-internet, or cellular telephone number, unless there is an established business relationship between the sender and the recipient.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A violation of Section 2 of this Act shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990, relating to acts and practices violating KRS 367.170 shall apply with equal force and effect to the acts and practices declared unlawful under Section 2 of this Act.

(3) Nothing in this section shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

Section 4. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999 and 367.990, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A live or recorded communication sent by a telephone~~[or message sent by a facsimile machine]~~ to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;

3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or

4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A live or recorded communication sent by telephone,~~[facsimile machine,]~~ mobile telephone, or telephone paging device in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;

2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or

3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean the following:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made to the debtor or a party to the contract in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(d) A telephone call made by the following:

  1. A merchant or telemarketer located in Kentucky to a location outside of the Commonwealth of Kentucky;

  2. A telephone call made by one (1) merchant to another;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator;

(11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes but is not limited to any such person that is an owner, operator, officer, director, or partner to the management activities of a business;

(12) "Publicly traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

  (a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

  (b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

  (c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer;

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation; and

(14) "Zero call" list means a list containing the telephone numbers of the individuals that indicate their preference not to receive telephone solicitations.

Section 5. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation.

It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year knowingly and willfully violates KRS 367.46955(15)(a) by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of Consumer Protection.

(24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list identified in KRS 367.46955(15) for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

(25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars

($5,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.

(c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.

(d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

(26) (a) Any person who violates the provisions of Section 2 of this Act shall be liable for a civil penalty not to exceed five hundred dollars ($500) for each violation. Each separate transmission of an unsolicited advertisement by telephone facsimile machine shall be presumed to be a willful act and shall constitute a separate violation. The person charged with making the transmission may rebut the presumption of willfulness with clear and convincing evidence that the person did not act intentionally, consciously, and with intentional disregard for, or plain indifference to, the requirements of Sections 1 to 3 of this Act in authorizing, ordering, or carrying out the transmission. If the person is determined to have acted willfully in committing an act constituting a violation of Section 2 of this Act, the person shall be liable for a civil penalty of not more than two thousand dollars ($2,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, may initiate enforcement of a civil penalty assessed under paragraph (a) of this subsection.

The Committee Substitute to **HB 437** is as follows:

HB 437, AN ACT relating to unsolicited facsimile transmissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 3 of this Act:

(a) "Telephone facsimile machine" means equipment that has the capacity to transcribe text or image, or both, from:

1. Paper into an electronic signal and to transmit that signal over a regular telephone line; or

2. An electronic signal received over a regular telephone line onto paper;

(b) "Unsolicited advertisement by telephone facsimile machine" means material transmitted to a recipient by telephone facsimile machine that:

1. Advertises the commercial availability or quality of property, goods, services, or business, investment, or employment opportunities; and

2. Is transmitted to a recipient without the recipient's prior express invitation or permission; and

(c) "Established business relationship" means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a business or residential subscriber with or without an exchange of consideration or payment, on the basis of an inquiry, application, purchase, or transaction by the business or residential subscriber regarding products or services offered by a person or entity, which relationship has not been previously terminated by either party.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to transmit or cause to be transmitted any unsolicited advertisement by telephone facsimile machine to a residential, business, voice-over-internet, or cellular telephone number, unless there is an established business relationship between the sender and the recipient.

(2) Any advertisement so transmitted shall contain a notice that informs the recipient of the ability and means to avoid future unsolicited advertisements. A notice contained in an advertisement complies with the requirements under this subsection only if:

(a) The notice is clear and conspicuous and on the first page of the advertisement;

(b) The notice states that the recipient may make a request to the sender of the advertisement not to send any future

advertisements to a telephone facsimile machine or machines and that failure to comply within thirty (30) days with such a request meeting the requirements under subsection (4) of this section is unlawful;

(c) The notice sets forth the requirements for an opt-out request; and

(d) The notice includes:

1. A domestic contact telephone number and facsimile machine number for the recipient to transmit an opt-out request to the sender; or

2. If neither the required telephone number nor facsimile machine number is a toll-free number, a separate cost-free mechanism including a Web site address or e-mail address by which a recipient may transmit a request pursuant to such notice to the sender of the advertisement. A local telephone number also shall constitute a cost-free mechanism so long as recipients are local and will not incur any long distance or other separate charges for calls made to such number; and

(e) The telephone and facsimile numbers and cost-free mechanism identified in the notice permit an individual or business to make an opt-out request twenty-four (24) hours a day, seven (7) days a week.

(3) A facsimile advertisement that is sent to a recipient that has provided prior express invitation or permission to the sender shall still include an opt-out notice that complies with the requirements in subsection (2) of this section.

(4) A request not to send future unsolicited advertisements to a telephone facsimile machine shall be honored by the sender as set forth in subsection (5) of this section so long as:

(a) The request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

(b) The request is made to the telephone number, facsimile number, Web site address or e-mail address identified in the sender's facsimile advertisement; and

(c) The person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing, to send such advertisements to such person at such telephone facsimile machine.

(5) A sender that receives a request not to send future unsolicited advertisements that complies with subsection (4) of this section shall honor that request within the shortest reasonable time from the date of such request, not to exceed thirty (30) days, and is prohibited from sending unsolicited advertisements to the recipient unless the recipient subsequently provides prior express invitation or permission to the sender. The recipient's opt-out request terminates the established business relationship exemption for purposes of sending future unsolicited advertisements. If such requests are recorded or maintained by a party other than the sender on whose behalf the unsolicited advertisement is sent, the sender will be liable for any failures to honor the opt-out request.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A violation of Section 2 of this Act shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) Notwithstanding the remedies, powers, and duties provided in this section, any person who has received more than two (2) unsolicited advertisements in violation of Section 2 of this Act within any twelve (12) month period from or on behalf of the same entity may bring an action under the Rules of Civil Procedure in the Circuit Court in which the sender resides or has its principal place of business or is doing business, or in the Circuit Court in which the recipient resides, to recover for actual monetary loss from such a violation or up to five hundred dollars ($500) for each such violation, whichever is greater.

(3) All of the remedies, powers, and duties provided by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990, relating to acts and practices violating KRS 367.170 shall apply with equal force and effect to the acts and practices declared unlawful under Section 2 of this Act.

(4) Nothing in this section shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

Section 4. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999 and 367.990, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A live or recorded communication sent by a telephone~~[or message sent by a facsimile machine]~~ to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;

3. Offering the person called a prize, gift, or anything else of value, if payment of money or other

consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or

4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A live or recorded communication sent by telephone,[~~facsimile machine,~~] mobile telephone, or telephone paging device in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;

2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or

3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean the following:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made to the debtor or a party to the contract in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(d) A telephone call made by the following:

1. A merchant or telemarketer located in Kentucky to a location outside of the Commonwealth of Kentucky;

2. A telephone call made by one (1) merchant to another;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator;

(11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes but is not limited to any such person that is an owner, operator, officer, director, or partner to the management activities of a business;

(12) "Publicly traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer;

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation; and

(14) "Zero call" list means a list containing the telephone numbers of the individuals that indicate their preference not to receive telephone solicitations.

Section 5. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year knowingly and willfully violates KRS 367.46955(15)(a) by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of Consumer Protection.

(24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list identified in KRS 367.46955(15) for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

(25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars ($5,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.

(c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.

(d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

(26) (a) Any person who violates the provisions of Section 2 of this Act shall be liable for a civil penalty not to exceed five hundred dollars ($500) for each violation. Each separate transmission of an unsolicited advertisement by telephone facsimile machine shall be presumed to be a willful act and shall constitute a separate violation. The person charged with making the transmission may rebut the presumption of willfulness with clear and convincing evidence that the person did not act intentionally, consciously, and with intentional disregard for, or plain indifference to, the requirements of Sections 1 to 3 of this Act in authorizing, ordering, or carrying out the transmission. If the person is determined to have acted willfully in committing an act constituting a violation of Section 2 of this Act, the person shall be liable for a civil penalty of not more than two thousand dollars ($2,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, may initiate enforcement of a civil penalty assessed under paragraph (a) of this subsection.

The Committee on Tourism Development and Energy reported **HB 129, HCR 126,** and **HCR 139** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 129, AN ACT relating to the Nicholas Hildreth School, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; B. Commerce Cabinet; 5. Parks, at pages 1163 and 1164, is amended to read as follows:

5. PARKS

	2006-07	2007-08
General Fund	27,978,400	31,145,400
Restricted Funds	55,217,700	56,335,600
TOTAL	83,196,100	87,481,000

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

(2)[~~(3)~~] **Nicholas Hildreth School:** Included in the above Restricted Funds appropriation is $60,000 in fiscal year 2006-2007 to move the Nicholas Hildreth School to ***Nicholas County school grounds***[~~Blue Licks Battlefield State Park~~].

Section 2. Whereas the provisions of this Act require action as soon as possible during the current fiscal year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HCR 126, A CONCURRENT RESOLUTION recognizing ConnectKentucky as the Commonwealth's information technology resource.

WHEREAS, the Kentucky General Assembly created the Kentucky Broadband Task Force in 2004 Ky. Acts ch. 167, and in 2005, the House of Representatives recognized ConnectKentucky for its innovative and progressive approach to accelerate technology initiatives in HR 124; and the "Prescription for Innovation" initiative was launched, which centered on achieving an array of benefits through widespread broadband Internet access; and

WHEREAS, Kentucky's progressive approach for increasing information technology deployment and adoption through the ConnectKentucky public-private partnership framework has been held up as a national model by a number of governmental and state organizations; and

WHEREAS, in the first two years, as a result of the progressive policy enacted by the Commonwealth of Kentucky and the subsequent investment by ConnectKentucky's telecommunication and cable partners, statewide broadband availability increased by 45 percent, resulting in an additional 429,000 households with access to broadband service; and

WHEREAS, the Broadband Task Force was directed to examine all aspects of expanding broadband availability in the Commonwealth, including regulation, cost, access to facilities, and market competition, and received testimony from numerous representatives of state and federal regulatory authorities, private and public telecommunications providers, consumer group representatives, and telecommunications industry associations, including ConnectKentucky, a private nonprofit technology-based economic development alliance charged with primary responsibility for achieving the goal of 100 percent accessibility of broadband service among Kentucky residents by 2007; and

WHEREAS, at its first meeting, the Kentucky Broadband Task Force requested ConnectKentucky to provide baseline and trend data as required in 2004 Ky. Acts ch. 167, and ConnectKentucky successfully fulfilled this request and continues to provide updates on this data; and

WHEREAS, ConnectKentucky collaborates with the Kentucky Infrastructure Authority to produce and maintain a comprehensive geographic information system inventory of broadband infrastructure and service availability -- a first in the nation -- that facilitates strategic decision-making regarding technology investments by identifying areas at the county and census-block levels with inadequate broadband service and existing infrastructure; and

WHEREAS, ConnectKentucky is working with electronic-community leadership teams in each county to confirm and refine the accuracy of mapped broadband coverage areas; and

WHEREAS, ubiquitous availability of broadband is widely believed to be critical to attracting new industry, business investment, and jobs to Kentucky, with a full deployment of broadband and the development of a technology-savvy workforce potentially creating up to 14,000 jobs and adding as much as $5,000,000,000 annually to Kentucky's gross state product; and

WHEREAS, ConnectKentucky has undertaken a major initiative to stimulate interest and demand for broadband by organizing and supporting electronic-community leadership teams in each county in order to develop detailed business plans and identify value-adding software applications for nine community sectors, including small business, local government, K-12 education, health care, libraries, higher education, agriculture, tourism, and nongovernmental organizations; and

WHEREAS, in the government sector, efforts are focused on the development of a meaningful online presence for every community with ready-to-offer citizen information services; and

WHEREAS, at the statewide level, ConnectKentucky brings together state agencies and the private sector to create cost-effective solutions for improving citizen access to broadband-enabled services, including programs such as the Kentucky Education Network for development of educational applications, the Kentucky Health Insurance Partnership for combining the electronic resources of all Kentucky health insurers to improve patient care and lower costs for both patients and taxpayers, and deployment of wireless broadband access for competitive tourism development at Kentucky State Parks; and to level the playing field for children in the Commonwealth by distributing refurbished state and university computers to low-income students throughout the state; and

WHEREAS, the Kentucky Broadband Task Force reported that the ongoing work of ConnectKentucky was found to be of great value, and that the insight and recommendations of ConnectKentucky will continue to be important in considering future broadband deployment and adoption across the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. As recommended by the Kentucky Broadband Task Force, ConnectKentucky is hereby recognized as the Commonwealth's information technology resource in order to continue improving Kentucky citizens' access and adoption of the most advanced information technology and telecommunications services, including:

(1) Working with providers and relevant government agencies to ensure adequate investments in information technology and telecommunications for keeping Kentucky competitive;

(2) Tracking technology progress and reporting regularly to the Legislative Research Commission to address constituent concerns and questions regarding information technology and telecommunications;

(3) Providing additional information related to competitive access and availability for increased broadband adoption based upon data collected at the county level;

(4) Assessing and evaluating the need for state-of-the-art emerging technologies for providing world-class Internet service in key economic areas of the Commonwealth where broadband technologies should be upgraded; and

(5) Granting the leadership of ConnectKentucky discretion to pursue the recommendations of the Kentucky Broadband Task Force and this resolution according to the resources available to the organization and in light of the fast-paced dynamics of the competitive broadband marketplace.

HCR 139, A CONCURRENT RESOLUTION urging the Army Corps of engineers to increase the depth of Barren River Lake during the winter pool.

WHEREAS, Barren River Lake is lowered 27 feet each year, from 552 feet summer pool to 525 feet winter pool, and this very significant 27 foot drawdown reduces the lake's surface acreage by 56 percent and decreases its volume by 74 percent; and

WHEREAS, the safety of boaters is threatened by lowering water levels on Barren River Lake during the peak tourist season and thereafter; and

WHEREAS, boats and other watercraft and their occupants are imperiled by obstructions that are exposed when water levels are lowered during the tourist season and thereafter; and

WHEREAS, navigation on Barren River Lake can be vastly improved by retaining a higher lake level; and

WHEREAS, maintaining a higher lake level would boost the economic viability of the region surrounding the lake, by lengthening the tourist season; and

WHEREAS, fishing conditions on the lake would be improved by maintaining a higher lake level, thus promoting Kentucky's recreational tourism opportunities; and

WHEREAS, tourism promotional groups and others have long advocated such a policy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Army Corps of Engineers, Louisville District, is urged to maintain the Barren River Lake water level, insofar as may be permitted by safety, substantially above the 525 foot level and to thereby ensure that the lake depth at its deepest point is maintained at not less than ten feet.

Section 2. The Clerk of the House of Representatives is directed to submit one copy of this Resolution to the Commander, Army Corps of Engineers, Louisville District.

The Committee on State Government reported **HB 220, HB 283, HB 361, HB 439, HB 464, HCR 16, HCR 107, HR 123, HCR 141,** and **HCR 151** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 220, AN ACT relating to state employees' personnel rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the commissioner for the Department of Workforce Investment or any person authorized by

the commissioner to act on behalf of the Office of Career and Technical Education with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. The designation shall be in writing and signed by both the commissioner and the designee;

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)(h);

(3) "Board" means the Kentucky Technical Education Personnel Board established in KRS 151B.097;

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Office of Career and Technical Education are subject to personnel administration under this chapter;

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group;

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A;

(7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment;

(8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility;

(9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Office of Career and Technical Education requiring certification or its equivalent;

(10) "Employee" means a person regularly employed in a position in the Office of Career and Technical Education for which compensation is on a full-time or part-time basis;

(11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Office of Career and Technical Education shall be subject to personnel administration under this chapter;

(12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant attorney general;

(13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position;

(14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status;

(15) "Limited status" means employment that is renewable on an annual basis;

(16) "Penalization" means actions ***which shall include but not be limited to***[~~including~~] demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions;

(17) "Position" means employment involving duties requiring the services of one (1) person;

(18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility;

(19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position;

(20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off;

(21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Office of Career and Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080;

(22) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay;

(23) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year;

(24) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time;

(25) "Transfer" means a movement of any certified or equivalent employee from one (1) position to another having the same salary range and the same level of responsibility; and

(26) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position who shall be exempt from the state service under KRS Chapter 18A and who is employed in the Office of Career and Technical Education under this chapter.

Section 2. KRS 151B.035 is amended to read as follows:

(1) The executive director of the Office of Career and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Office of Career and Technical Education central office and state-operated vocational facilities. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the executive director of the Office of Career and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Office of Career and Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The executive director of the Office of Career and Technical Education shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;
(b) Applications;
(c) Classification and compensation plans;
(d) Incentive programs;
(e) Selection of employees;
(f) Types of appointments;
(g) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;
(h) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;
(i) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;
(j) Employee evaluations;
(k) Programs to improve the work effectiveness of employees including staff development;
(l) Demotion;
(m) Dismissal;
(n) Layoffs;
(o) Suspensions and other disciplinary measures;
(p) Probationary periods, limited employment status, and continuing employment status;
(q) Promotion;
(r) Transfer;
(s) Appeals; and
(t) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the executive director of the Office of Career and Technical Education shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the commissioner of the Department of Workforce Investment and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the executive director of the Office of Career and Technical Education shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the executive director of the Office of Career and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Office of Career and Technical Education.

(5) The commissioner for the Department of Workforce Investment shall be the appointing authority with respect to all personnel actions for the Office of Career and Technical Education. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Any personnel designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by the commissioner. Any recommendation for employment from the local level shall be based on guidelines promulgated by the executive director and shall be contingent upon confirmation by the executive director.

(6) The executive director of the Office of Career and Technical Education shall promulgate other administrative regulations

to govern proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the Kentucky Technical Education Personnel Board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Office of Career and Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The executive director of the Office of Career and Technical Education shall make investigations, either on petition of a citizen, taxpayer, interested party, or as deemed necessary by the executive director, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of the provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The executive director of the Office of Career and Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The Kentucky Technical Education Personnel Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized[~~ for cause~~]. Effective August 15, 2000, appeals from assistants and secretaries in the Office of Career and Technical Education attached to policymaking positions shall be governed by KRS 18A.095. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the Office of Career and Technical Education.

(10) The Kentucky Technical Education Personnel Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The executive director of the Office of Career and Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

HB 283, AN ACT relating to naming and designating the official state wine festival.

WHEREAS, a Frenchman named John James Dufour came to Nicholasville, Kentucky, from Switzerland and established the first commercial vineyard in the United States in 1798; and

WHEREAS, subsequent interest spread throughout Kentucky and by 1860 Kentucky had become the third largest grape-producing state in America; and

WHEREAS, the Civil War crippled the vineyard operation dramatically and Prohibition in 1920 destroyed the industry entirely; and

WHEREAS, Kentucky farmers recently have begun to show interest in raising grapes due to surging interests by the American public's appreciation of wine; and

WHEREAS, Kentucky's production of grapes has quadrupled in recent years and commercial vineyards have expanded to consume approximately 300 acres; and

WHEREAS, presently the Kentucky Wine and Vine Festival is held annually in Nicholasville on the second Saturday of May to celebrate the legacy left by John James Dufour; and

WHEREAS, the Kentucky Wine and Vine Festival continues to grow in popularity with vendors and guests alike and on May 12, 2007, the city of Nicholasville, Kentucky, will celebrate the Kentucky Wine and Vine Festival's fourth Anniversary;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Nicholasville Wine and Vine Festival is named and designated as the official wine festival of Kentucky.

HB 361, AN ACT relating to state employee educational requirements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The requirement of a high school diploma, equivalency certificate, or a passing score on the General Educational Development (GED) test in the Highway Superintendent I and Highway Superintendent II class specifications shall not apply to employees hired prior to July 1, 1985.

HB 439, AN ACT relating to executive branch ethics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including ***but not limited to*** the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, ***salaried board*** members~~[and full time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and]~~ any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any ***major management*** position~~[listed in this subsection]~~ ***and any unpaid executive officer***;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;
(b) The Lieutenant Governor;
(c) The Secretary of State;
(d) The Attorney General;
(e) The Treasurer;
(f) The Commissioner of Agriculture;
(g) The Auditor of Public Accounts; and
(h) All employees in the executive branch including officers as defined in subsection (7) of this section***, any person who holds a personal service contract, or any other employment arrangement to perform, on a full-time basis for a period of time not less than six (6) months, a function of any executive branch position,*** and merit employees;

(10) "***State*** agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally;~~[and]~~

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public***;***

(20) "Person" means an individual, proprietorship, firm, partnership, limited liability partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert;

(21) "Matter" means any case, proceeding, application, determination, issue, contract, claim, investigation, charge, legislation, or question;

(22) "Executive officer" means any person working in the executive branch of state government who:

(a) Performs any advisory, policy-making, personnel, or discretionary duties, regardless of whether the person also performs ministerial or perfunctory duties; and

(b) Uses any state-owned facilities, equipment, or personnel; and

(23) "Board member" means a member of any policy-making or regulatory board, commission, authority, corporation, council, or committee in the executive branch of state government. "Board member" does not include a member of an advisory-only board, commission, panel, council, or committee.

Section 2. KRS 11A.015 is amended to read as follows:

(1) An agency that is directed by statute to adopt a code of ethics shall be exempt from KRS Chapter 11A upon the effective date of an Act of the General Assembly creating the agency's code of ethics or upon the effective date of an administrative regulation that creates the agency's code of ethics.

(2) Any code of ethics, either statutory or regulatory, adopted by an agency pursuant to this section shall, at a minimum, adhere to the standards set forth in the executive branch code of ethics. Nothing in this subsection shall be interpreted to mean that the Executive Branch Ethics Commission does not retain, at a minimum, concurrent jurisdiction on matters otherwise properly under KRS Chapter 11A.

Section 3. KRS 11A.020 is amended to read as follows:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others***, including but not limited to the following:***

1. Seeking other employment or contract for services for oneself by the use or attempted use of the public servant's office or position;

2. Misuse of state time, equipment, personnel, facilities, or other state resources for private business or campaign fundraising purposes; and

3. Soliciting, selling to, or otherwise engaging in a financial transaction with, a subordinate or a person or business whom the public servant regulates, does business with, or supervises in the public servant's official capacity, if the economic benefit to the public servant is fifty dollars ($50) or more[~~in derogation of the public interest at large~~].

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

(4) The prohibitions imposed by subsection (1)(c) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Section 4. KRS 11A.040 is amended to read as follows:

(1) A public servant, in order to further his own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

(2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed ***as benefits*** through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or

(d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction; or

(e) Sales of craft items to a state park by interim state employees designated as craftspersons under KRS 148.257.

(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission. ***Nothing in this section shall prevent acceptance by a public servant of an award for exceptional service, so long as acceptance by the public servant of that award does not violate the provisions of subsection (1) of Section 5 of this Act.***

(6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within six (6) months of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent

(5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed ***as benefits*** through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.

(7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions, including but not limited to filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed ***as benefits*** through entitlement programs.

(8) ***(a)*** A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:

1.[~~(a)~~] The date of leaving office or termination of employment; or

2.[~~(b)~~] The date the term of office expires to which the public servant was elected.

(b) This subsection shall not prohibit a former public servant from performing ministerial functions including but not limited to filing tax returns, filing applications for permits or licenses, or filing incorporation papers, which may include discussions with state agencies concerning these functions.

(9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

(a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

(b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

(c) The appointing authority, if applicable, shall file ***annually on July 15***[~~quarterly~~] with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment ***during the previous fiscal year*** along with the name of the outside employer of each.

(11) ***A public servant shall not negotiate for employment with a person or business that does business with or is regulated by the agency for which he works, if the public servant is directly involved in matters regarding the prospective employer. If a public servant wishes to abstain from direct involvement in matters regarding a prospective employer that does business with or is regulated by the public servant's agency, the public servant shall disclose such abstention pursuant to subsection (3) of Section 3 of this Act.***

(12) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Section 5. KRS 11A.045 is amended to read as follows:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities[~~, including travel expenses, meals, alcoholic beverages, and honoraria,~~] totaling a value greater than ***fifty dollars ($50)***[~~twenty-five dollars ($25)~~] in a

single calendar year***, including but not limited to travel expenses, meals, alcoholic beverages, and honoraria,*** from any person***,***[~~ or~~] business***, college, university, or public agency*** that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

(2) Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or acceptance by a public servant of a ticket for admission to a sporting event if the ticket or admission is paid for by the public servant at face value or is paid for at face value by the individual to whom the ticket is allocated.

(3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:

(a) Was not solicited by the public servant;

(b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars ($25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and

(c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

Section 6. KRS 11A.050 is amended to read as follows:

(1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (g), and each candidate shall file a statement of financial disclosure with the commission, as follows:

(a) Each officer and each public servant listed in KRS 11A.010(9)(a) to (g) who occupies his position during any portion of a calendar year shall file the statement for that portion of the calendar year he occupied the position on or before April 15 of the following year, whether or not he remains an officer or public servant as listed in KRS 11A.010(9)(a) to (g).

(b) Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who does not remain an officer or public servant listed in KRS 11A.010(9)(a) to (g) for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant listed in KRS 11A.010(9)(a) to (g). The statement shall be filed with the commission within ***ninety (90)***[~~thirty (30)~~] days after the date the person no longer serves as an officer or public servant listed in KRS 11A.010(9)(a) to (g).

(c) A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.

(2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.

(3) The statement shall include the following information for the preceding calendar year:

(a) Name and entire residential and business address of filer;

(b) Title of position or office whereby filing is required;

(c) Any other occupations of filer and spouse;

(d) Positions held by the filer or his spouse in any business, and the name***,***[~~ and~~] address***, and nature*** of the business;

(e) Names***, address, and nature of any business***[~~ and addresses of all businesses~~] in which the filer, his spouse, or dependent children has or had an interest of ten thousand dollars ($10,000) at fair market value or five percent (5%) ownership interest or more;

(f) The name and address of any source of gross income exceeding one thousand dollars ($1,000) from any one (1) source to the filer, his spouse, or dependent child, as well as information concerning the nature of the business, and the form of the income;

(g) Sources of retainers received by the filer or his spouse relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would serve in a decision-making capacity, including each source's name and address;

(h) Any representation or intervention for compensation by the filer or his spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business ***and the***

nature of the business;

(i) All positions of a fiduciary nature held by the filer or his spouse in a business, including the name and address of the business;

(j) Information, including a street address or location, regarding any real property in which there is an interest of ten thousand dollars ($10,000) or more held by the filer, his spouse, or dependent children;

(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars ($200) from any one (1) source to the filer, his spouse, or dependent children, except those from a member of the filer's family; and

(l) Identity, including an address, of creditors owed more than ten thousand dollars ($10,000), except debts arising from the purchase of consumer goods.

Paragraphs (a) to (l) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

Section 7. KRS 11A.055 is amended to read as follows:

(1) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for a charitable nonprofit organization granted a tax exemption by the Internal Revenue Service under Section 501c of the Internal Revenue Code without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of the charitable organization, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the charitable organization. ***Nothing in this subsection shall allow a public servant to solicit from a person or entity for a charitable nonprofit organization, if the person or entity has a matter before the state agency by which the public servant is employed or supervises.***

(2) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for crime prevention, drug and alcohol abuse prevention, and traffic safety programs without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of a program specified in this section, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the program. ***Nothing in this subsection shall allow a public servant to solicit from a person or entity for the programs listed in this subsection, if the public servant has direct involvement with the person or entity as part of his official duties.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) A member of a public servant's family is not prohibited from employment in the same agency as the public servant. However, a public servant shall not advocate or influence in any way the employment, appointment, promotion, transfer, or advancement of a member of the public servant's family to an executive branch position of employment that the public servant directly supervises or manages.

(2) A public servant shall not participate in an action relating to the discipline of a member of the public servant's family.

(3) Nothing in this section shall cause the dismissal of a public servant who is supervised by a family member on the effective date of this Act.

Section 9. KRS 11A.060 is amended to read as follows:

(1) The Executive Branch Ethics Commission is hereby established.

(2) The commission shall be composed of five (5) members~~[appointed by the Governor]~~. ***Beginning with the terms of the commission members whose appointments expire July 14, 2008, terms for members shall be filled on a rotating basis as follows:***

(a) The Governor shall appoint the first member;

(b) The Attorney General shall appoint the second member; and

(c) The Auditor of Public Accounts shall appoint the third member.

A vacancy in an unexpired term shall be filled in the same manner as the vacating member's position was filled pursuant to this subsection.

(3) Members of the commission shall serve staggered terms of four (4) years.~~[Of the initial members appointed as provided in this section, one (1) member shall serve a term of one (1) year, one (1) member shall serve a term of two (2) years, one (1) member shall serve a term of three (3) years, and two (2) members shall be appointed for terms of four (4) years. Thereafter, all appointments shall be for four (4) years.]~~

(4) The commission shall elect from its membership a chairman and vice chairman. In the absence of the chairman or in the event of a vacancy in that position, the vice chairman shall serve as chairman.

(5) A member of the commission shall receive one hundred dollars ($100) per day for attending meetings and shall be reimbursed for actual and necessary expenses incurred in the performance of duties.

(6) All members shall be registered voters of the state.

(7) Members of the commission shall be removed by the ***constitutional officer who appointed the member***~~[Governor]~~ for

cause only, including substantial neglect of duty and inability to discharge the powers and duties of office. ***Any commission member missing three (3) consecutive meetings shall be deemed to have vacated his office. Replacements to the board shall be made as provided in subsections (2) and (3) of this section.***

(8) A quorum shall consist of three (3) or more members. An affirmative vote of three (3) or more members shall be necessary for commission action.

(9) The commission shall meet at the call of the chairman or a majority of its members.

(10) The commission shall be attached to the ***Finance and Administration Cabinet***[~~office of the Governor~~] for administrative purposes only.

Section 10. KRS 11A.080 is amended to read as follows:

(1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall conduct a preliminary investigation of any alleged violation of this chapter.

(b) The preliminary investigation shall begin not later than ten (10) days after the next commission meeting following the receipt of the sworn complaint, or, if the investigation is initiated by the commission's own motion, not later than ten (10) days after the date of the adoption of the motion.

(c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the complaint, if one has been filed, or a statement of possible violations being investigated, and a general statement of the applicable law to the person alleged to have committed a violation.

(2) All commission proceedings and records relating to a preliminary investigation shall be confidential ***unless***[~~until~~] a final determination is made by the commission***.***[~~, except:~~] ***For purposes of this subsection, a final determination is a final order issued by the commission as a result of an administrative proceeding, but the commission may at any time make its proceedings or records available in the following circumstances:***

(a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's Attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings;

(b) If the alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party;

(c) If the matter being investigated was referred to the commission from ***a public***[~~another state~~] agency, the commission may inform the referring ***public***[~~state~~] agency of the status of any preliminary investigation and of any action taken on the matter.

(d) The commission, at its discretion, may publicly confirm that an investigation has been initiated, if the violations alleged in the investigation were referred to the commission from a public agency.

(e) The commission, at its discretion, may publicly confirm that an investigation has been terminated, if the violations alleged in the investigation were referred to the commission from a public agency.

(3) If the commission determines in the preliminary investigation that the facts are not sufficient to constitute a violation of this chapter, the commission shall immediately terminate the investigation and notify in writing the complainant, if any, and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.

(4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:

(a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or

(b) Initiate an administrative proceeding to determine whether there has been a violation.

Section 11. KRS 11A.100 is amended to read as follows:

(1) The provisions of KRS Chapter 13B shall apply to all commission administrative hearings.

(2) All administrative hearings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(3) The commission, upon a finding pursuant to an administrative hearing that there has been clear and convincing proof of a violation of this chapter, may:

(a) Issue an order requiring the violator to cease and desist the violation; and

(b) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter; and

(c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any; and

(d) In writing, recommend to the violator's appointing authority that the violator be removed or suspended from office or employment, and include a recommendation for length of suspension, to be approved by the appointing authority, if any; and

(e) Issue an order requiring the violator to pay a civil penalty of not more than five thousand dollars ($5,000) for each violation of this chapter.

(4) In addition to any other remedies provided by law, any violation of this chapter which has substantially influenced the action taken by any state agency in any particular matter shall be grounds for voiding, rescinding, or canceling the action on such terms as the interests of the state and innocent third persons require.

(5) The commission shall refer to the Attorney General evidence of violations of KRS 11A.040 for prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation. The commission may represent itself through the general counsel in all subsequent proceedings.

(6) A finding by the commission that a public servant has violated the provisions of this chapter may be cause for an agency to dismiss or otherwise discipline the public servant pursuant to the terms of KRS 18A.0751. This subsection shall also apply to any public servant not subject to KRS Chapter 18A.

Section 12. KRS 11A.130 is amended to read as follows:

Nothing in this chapter shall be construed to prohibit ***a present or former officer or public servant who, as a part of his official duty, provided a service that has been privatized as defined in KRS 45A.550 from accepting employment from the person or business responsible for those privatized services if the present or former officer or public servant was not involved in making the decision to privatize or in developing the provisions of the privatization contract***~~[an officer or public servant employed by an agency that is privatized from accepting employment from the person or business which is operating that agency if the officer or public servant was not involved in making the decision to privatize or in developing the provisions of the privatization contract]~~.

SECTION 13. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) No board member shall himself or through a business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the board, commission, authority, corporation, council, or committee of which he is a member. This prohibition shall not apply to purchases that are available on the same terms to the general public or which are made at public auction.

(2) A board member shall disclose to the other members of the board, commission, authority, corporation, council, or committee of which he is a member, any direct or indirect interest in any undertaking that puts his personal interest in conflict with that of the agency. This disclosure shall be made in writing or shall be recorded in the minutes of a formal meeting. A member who is required to publicly disclose a direct or indirect interest shall abstain from all decisions concerning his interest, if the decision would affect him as a member of a business, profession, occupation, or group in a manner different from other members of the business, profession, occupation, or group.

(3) Board members shall be subject to Section 5 of this Act.

Section 14. KRS 11A.990 is amended to read as follows:

(1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In addition:

(a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite that the offender is disqualified to hold office thereafter; and

(b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have forfeited any employment, or constitutional or statutory office he holds, provisions of KRS Chapter 18A to the contrary notwithstanding.

(2) Any officer, public servant, or candidate required to file a statement of financial disclosure under KRS 11A.050 who does not file the statement by a date specified in that section shall have his salary withheld from the ***sixteenth***~~[first]~~ day of noncompliance until he shall have completed the action required by law. The amount withheld shall be deducted from his overall pay and allowances and shall be recoverable upon the filing of the statement of financial disclosure. The commission may grant a reasonable extension of time for filing a statement of financial disclosure for good cause shown.

(3) Any person who maliciously files with the commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed five thousand dollars ($5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both.

(4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced after four (4) years have elapsed from the date of the violation. Any executive agency lobbyist, employer, or real party in interest who violates any provision in KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed five thousand dollars ($5,000). For the second and each subsequent violation, he shall be guilty of a Class D felony.

(5) Any executive agency lobbyist, employer, or real party in interest who fails to file the initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars ($100) per day, up to a maximum total fine of one thousand dollars ($1,000).

(6) Any executive agency lobbyist, employer, or real party in interest who intentionally fails to register, or who intentionally files an initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216 which he knows to contain false information or to omit required information shall be guilty of a Class D felony.

(7) An executive agency lobbyist, employer, or real party in interest who files a false statement of expenditures or details of a financial transaction under KRS 11A.221 or 11A.226 is liable in a civil action to any official or employee who sustains damage as a result of the filing or publication of the statement.

(8) Violation of KRS 11A.236 is a Class D felony.

Section 15. KRS 61.102 is amended to read as follows:

(1) No employer shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence, in any manner whatsoever, which tends to discourage, restrain, depress, dissuade, deter, prevent, interfere with, coerce, or discriminate against any employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Kentucky Legislative Ethics Commission, the Attorney General, the Auditor of Public Accounts, ***the Executive Branch Ethics Commission,*** the General Assembly of the Commonwealth of Kentucky or any of its members or employees, the Legislative Research Commission or any of its committees, members or employees, the judiciary or any member or employee of the judiciary, any law enforcement agency or its employees, or any other appropriate body or authority, any facts or information relative to an actual or suspected violation of any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or any of its political subdivisions, or any facts or information relative to actual or suspected mismanagement, waste, fraud, abuse of authority, or a substantial and specific danger to public health or safety. No employer shall require any employee to give notice prior to making such a report, disclosure, or divulgence.

(2) No employer shall subject to reprisal or discriminate against, or use any official authority or influence to cause reprisal or discrimination by others against, any person who supports, aids, or substantiates any employee who makes public any wrongdoing set forth in subsection (1) of this section.

(3) This section shall not be construed as:

   (a) Prohibiting an employer from requiring that an employee inform him of an official request made to an agency for information, or the substance of testimony made, or to be made, by the employee to legislators on behalf of an agency;

   (b) Permitting the employee to leave his assigned work area during normal work hours without following applicable law, administrative regulations, rules, or policies pertaining to leave, unless the employee is requested by the Kentucky Legislative Ethics Commission ***or the Executive Branch Ethics Commission*** to appear before the commission, or by a legislator or a legislative committee to appear before a legislative committee;

   (c) Authorizing an employee to represent his personal opinions as the opinions of his employer; or

   (d) Prohibiting disciplinary or punitive action if an employee discloses information which he knows:

      1. To be false or which he discloses with reckless disregard for its truth or falsity;

      2. To be exempt from required disclosure under the provisions of KRS 61.870 to 61.884; or

      3. Is confidential under any other provision of law.

HB 464, AN ACT relating to the Secretary of State.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:

56.310 Annual report to Governor.

HCR 16, A CONCURRENT RESOLUTION urging the Congress of the United States to continue to press for strong measures to end the violence in the Sudan and urging the Securities and Exchange Commission to provide guidance to fund managers in order to avoid investments which may be supporting nations involved in the support of terrorism or human rights violations.

WHEREAS, Sudan's government and southern rebels have come to an historic, long-awaited agreement that ends Africa's longest civil war and brings hope to millions of exiled Sudanese yearning to return home; and

WHEREAS, continued violence in the troubled region of Darfur, Sudan, previously described by the Bush administration as genocide, casts a shadow over the agreement, which does not cover the Darfur conflict; and

WHEREAS, the government of the Sudan appears to have sponsored a militia composed of a loose collection of fighters, apparently of Arab background, known as the "Janjaweed," and with the active support of the regular army, the Janjaweed have attacked villages and committed numerous human rights violations; and

WHEREAS, the humanitarian consequences of the situation in Darfur are grave, with an estimated 30,000 innocent civilians brutally murdered, and according to the Office of the United Nations High Commissioner for Refugees' 2004 statistics, 662,302 people internally displaced, and 730,650 people forced from their homes and fleeing to neighboring countries; and

WHEREAS, the citizens of the Commonwealth of Kentucky abhor this violence and desire that their tax dollars neither directly nor indirectly support these human rights violations through investment in companies aiding the government of Sudan in these acts of terror; and

WHEREAS, the United States Congress established the Office of Global Security Risk in the Securities and Exchange Commission to provide information to United States investors, including public pension plans, to ascertain whether their funds are invested in corporations with ties to governments that support terrorism; and

WHEREAS, the National Conference of State Legislatures, the National Association of State Retirement Administrators, the National Association of State Auditors, Comptrollers and Treasurers, and the National Council on Teacher Retirement have joined in urging the Securities and Exchange Commission to assist investors by requiring companies to disclose business conduct in states designated by the State Department as sponsoring terrorism;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky urges the President and the United States Congress to continue to work with the international community to press the government of the Sudan to halt these human rights violations.

Section 2. The General Assembly of the Commonwealth of Kentucky urges the Securities and Exchange Commission to require full disclosure from companies doing business in countries sponsoring terrorism and to issue guidance to public investors so that the Commonwealth may be assured that its funds are not contributing to terrorism.

Section 3. The Clerk of the House of Representatives shall send copies of this Resolution to the Clerk of the House of Representatives of the United States, the Clerk of the Senate of the United States, each member of the Kentucky delegation to the Congress of the United States, and Christopher Cox, Chairman, Securities and Exchange Commission.

HCR 107, A CONCURRENT RESOLUTION declaring the area of General Assembly committee rooms used for the seating of legislators to be off-limits for the duration of a committee meeting for all persons who are not legislators or staff, unless a specific person or persons are invited by a legislator into the restricted area.

WHEREAS, the Kentucky Code of Legislative Ethics states that "the proper operation of a democratic government requires that a public official be independent and impartial". . .and that "a public official avoid action which creates the appearance of using public office to obtain a benefit. . . "; and

WHEREAS, the Kentucky Code of Legislative Ethics prohibits a legislative agent or other lobbyist from going on the floor of either house of the General Assembly when the house is in session, except upon invitation of that house; and

WHEREAS, the Kentucky Code of Legislative Ethics declares that "the operation of open and responsible government requires the fullest opportunity to be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on executive and legislative action"; and

WHEREAS, Senate Rule 71 and House of Representatives Rule 72 prohibit, while the chamber is in session or recess, any person from lobbying in the halls or rooms of the part of the Capitol assigned to the chamber's use; and

WHEREAS, Senate Rule 71 and House of Representatives Rule 72 also prohibit access to legislative office areas without authorization; and

WHEREAS, these statutes and chamber rules provide respected spaces in which a legislator can reflect on all information provided on an issue and make an independent and impartial decision on the issue on behalf of his or her constituents and the state at large; and

WHEREAS, although members of the General Assembly value the counsel of and information provided by citizens, lobbyists, and others, nevertheless, the members require the respected space of their offices, chambers, and committee rooms to concentrate their best energies on their duties; and

WHEREAS, members of the General Assembly are concerned about impartiality during a meeting in which they are voting on bills; and

WHEREAS, current statutes and rules do not include the legislator seating area of committee rooms as areas free from approach by lobbyists and others during the course of official meetings; and

WHEREAS, members of the General Assembly desire that the legislator seating area of committee rooms be restricted for the duration of a committee meeting to legislators and staff so that the members can focus on making independent and impartial decisions on behalf of their constituents and the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The area of General Assembly committee rooms used for the seating of legislators shall be off-limits for the duration of a committee meeting for all persons who are not legislators or staff, unless a specific person or persons are invited by a legislator into the restricted area. The seating area for legislators shall be restricted from the time the meeting is called to order until it is adjourned.

Section 2. The chairs of standing committees in each chamber are urged, after calling a meeting to order, to remind members of the audience about this restriction for the duration of the meeting.

HR 123, A RESOLUTION recognizing the third Saturday in May as Friedreich's Ataxia Awareness Day.

WHEREAS, Friedreich's Ataxia is an inherited disease that causes progressive damage to the nervous system, resulting in symptoms ranging from muscle weakness and speech problems to heart disease; and

WHEREAS, symptoms usually begin between the ages of 5 and 15 years, but can appear as early as 18 months or as late as 30 years of age; and

WHEREAS, there is currently no effective cure or treatment for Friedreich's Ataxia; and

WHEREAS, within 15 to 20 years after the appearance of the first symptoms, the person is generally confined to a wheelchair; and, in the later stages of the disease, the person is usually completely incapacitated; and

WHEREAS, Friedreich's Ataxia is the most frequently inherited ataxia; and

WHEREAS, according to the Proceedings of the National Academy of Sciences of the United States of America, Friedreich's Ataxia has a prevalence rate of 1 to 50,000 people; and

WHEREAS, raising awareness of Friedreich's Ataxia will lead to more research and understanding of this disease;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes the third Saturday in May as Friedreich's Ataxia Awareness Day.

HCR 141, A CONCURRENT RESOLUTION urging awareness by educators and the retail community of the special access needs of those living with Crohn's disease.

WHEREAS, Crohn's disease is a chronic disorder that causes inflammation of the digestive or gastrointestinal tract; and

WHEREAS, Crohn's disease, and a related disease, ulcerative colitis, are the two main disease categories that belong to a larger group of illnesses call inflammatory bowel disease; and

WHEREAS, irritable bowel disease impacts 1.4 million patients per year in the U.S., at an annual cost of approximately $2 billion per year; and

WHEREAS, approximately 30,000 new cases of irritable bowel disease are diagnosed every year; and

WHEREAS, irritable bowel disease is primarily a disease affecting young people and those in the prime of their life; and

WHEREAS, children with inflammatory bowel disease miss school activities and do not have the appropriate access to restrooms during school hours; and

WHEREAS, inflammatory bowel disease patients are at a high risk of developing colorectal cancer; and

WHEREAS, the symptoms of Crohn's disease and inflammatory bowel disease present a barrier to individual freedom, happiness, and productivity; and

WHEREAS, because those with one of these diseases often have an urgent need to use a restroom, Crohn's disease and irritable bowel disease can have implications for employment, social interactions, and self image;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Department of Education should work with local school systems to ensure that educators are aware of the impact that living with Crohn's disease and irritable bowel disease has on students with the condition. Educators also should be aware of the special need for access to restrooms by students with the disease in order to ensure that their educational attainment is not disrupted.

Section 2. The retail community also should be aware of the special needs of people living with this condition and the potential need for access to facilities.

HCR 151, A CONCURRENT RESOLUTION creating the Vest-Lindsay House Preservation Task Force.

WHEREAS, the Vest-Lindsay House is located in the Frankfort, Kentucky historical Corner of Celebrities neighborhood and is recognized as one of Frankfort's oldest homes; and

WHEREAS, the Vest-Lindsay House is named after George Graham Vest, who occupied the house during his boyhood years and later represented Missouri in the Confederate Congress and in the United States Senate, and Thomas Noble Lindsay, who occupied the home and fathered Daniel Weisiger Lindsay who later formed a regiment of Union soldiers at the outbreak of the Civil War; and

WHEREAS, the Vest-Lindsay House has been owned, operated, and maintained by the Commonwealth of Kentucky since 1965; and

WHEREAS, the Vest-Lindsay House has undergone several major renovations to return the property and its furnishings to its original appearance; and

WHEREAS, the Vest-Lindsay House is currently at an important juncture in its history due to much-needed electrical and accessibility updates; and

WHEREAS, the Vest-Lindsay House is currently occupied by the Executive Branch Ethics Commission, and tourism visitation opportunities have diminished drastically; and

WHEREAS, the future and ultimate use of the Vest-Lindsay House needs to be resolved and vital upgrades need to be made to the property and its furnishings to preserve its historical significance to downtown Frankfort;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is hereby directed to create a Vest-Lindsay House Preservation Task Force. The task force shall study the issues associated with the long-term use and preservation of the Vest-Lindsay House, gather information, and make recommendations to the General Assembly regarding, but not limited to, the following: Long-term use of the Vest-Lindsay House; long-term protection of the Vest-Lindsay House and its furnishings; current and future restoration needs; funding and staffing needs; and ongoing governance and administration of the Vest-Lindsay House.

Section 2. The task force shall be composed of the following 13 members: one member of the House of Representatives, appointed by the Speaker of the House of Representatives, who shall serve as a co-chair; one member of the Senate, appointed by the President of the Senate, who shall serve as a co-chair; the director of the Kentucky Heritage Council or a designee; the director of the Office of Historic Properties or a designee; two representatives of the Colonial Dames; a representative of the Paul Sawyier Library Board; two residents of the historic Frankfort area, appointed by the Legislative Research Commission; the director of Preservation Kentucky, Inc. or a designee; a representative of the Frankfort/Franklin County Tourism Commission; the director of Downtown Frankfort, Inc. or a designee; and one member with 40 years of interest in the preservation of the Vest-Lindsay House, appointed by the Legislative Research Commission. Final membership of the task force shall be subject to the consideration and approval of the Legislative Research Commission.

Section 3. The task force shall meet upon the call of the co-chairs beginning July, 2007, and concluding upon the completion of its final report.

Section 4. The task force shall submit its final report, along with recommendations, to the Legislative Research Commission for referral to the appropriate committee or committees by September 1, 2008.

Section 5. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Health and Welfare reported **HB 362,** with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 362** is as follows:

HB 362, AN ACT relating to safety for state social service workers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

In honor of Boni Frederick who lost her life in the performance of her official duties, Sections 1 to 6 of this Act shall be known as the "Boni Frederick Bill."

Section 2. KRS 194A.065 is amended to read as follows:

For the purposes of this section and Section 6 of this Act, "front line staff" means an employee of the Division of Service Regions of the Department for Community Based Services or the immediate supervisor of an employee whose professional duties include ongoing adult or child protective services, protective services investigations or assessments, or regularly conducting interviews, visits, contacts, or providing transportation services or other services in the homes of family members involved in adult or child protective services.

(1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.

(3) The Cabinet for Health and Family Services shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.

(4) The cabinet secretary and the secretary of the Justice Cabinet shall establish communications, policies, and procedures to enable designated cabinet staff of the Department for Community Based Services who are working on a protective services investigation or an ongoing protective services case to request a state criminal background check, and within a reasonable time frame, but no later than one (1) hour after receipt of a request, to have the state criminal background check sent to designated cabinet staff. Designated cabinet staff may request a state criminal background check at any time for a protective services investigation and may use the state criminal background check to assess staff safety concerns.

(5) The Cabinet for Health and Family Services shall prioritize the safety needs of the front line staff of the Department for Community Based Services and provide improvements in accordance with this section and Sections 3 and 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

(1) Each staff member of the department shall report to his or her supervisor any physical or verbal conduct of a client or an individual associated with a client that appears to be threatening or menacing, and any incident of assault, attempted assault, or physical contact that appears to be threatening to any staff member. Any use or threat of use of any type of weapon shall be reported. The supervisor shall report threat or incident information to the commissioner of the department or his or her designee. An employee who reports under this subsection shall be protected from reprisals pursuant to KRS 61.102.

(2) The department shall establish and maintain an information system and track all reports of threats or incidents involving violence against department staff as required by subsection (1) of this section. The department shall provide, upon request, the number and type of reports received and any information available regarding civil or criminal action or changes to policies and procedures resulting from threats or incidence of violence upon staff.

(3) The department shall designate or establish a safety liaison position within its central office and in each regional office. The regional administrator may designate or establish a safety liaison position in each county office. The duties of the central office safety liaison shall include but not be limited to:

(a) Development and implementation of policies and procedures related to the prevention of violence in the office and in community settings;

(b) Screening and assessment of the level of threat for professional-client interactions;

(c) Facilitation of safety training and safety and first alert protocols with all law enforcement agencies that work with each county office. Existing multidisciplinary teams may be utilized in the development of local safety protocols; and

(d) Administration of a Web-based social worker safety site and a threat and violence incident database.

SECTION 4. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

Beginning July 1, 2007, the Department for Community Based Services shall report quarterly to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare the number of social services employees who have been hired, dismissed, retired, or experienced other status change and the number of vacancies by position and classification for the Division of Service Regions.

Section 5. (1) Whereas, the House of Representatives of the General Assembly finds that state social workers may be placed in dangerous situations while performing their official duties and acknowledges the hazardous nature of state protective services and expresses sincere gratitude to the professionals throughout Kentucky who dedicate themselves to helping families in need of services; and

(2) Whereas, there is a need to improve agency policies and procedures to improve the safety of state social workers; and

(3) Whereas, there is continuing concern about overburdened state social workers and large caseloads that may impact the quality of protective and family services;

(4) The Legislative Research Commission is directed to establish a legislative task force on front line staff. The task force on front line staff shall be composed of the following members:

(a) The secretary of the Cabinet for Health and Family Services or designee;

(b) Two representatives from two different public postsecondary institutions, one that offers an undergraduate degree in social work and one that offers a postgraduate degree in social work, and one representative from a private postsecondary institution that offers an undergraduate degree or coursework in social work to be appointed by the Legislative Research Commission from a list of at least eight persons submitted by the Council on Postsecondary Education;

(c) The president of the Kentucky Chapter of the National Association of Social Workers or designee;

(d) Two members of the field staff subcommittee established under subsection (6) of this section, one of whom shall be an at-large member appointed by the Legislative Research Commission;

(e) Two members of the House of Representatives, one of whom shall be a member of the majority party and one of whom shall be a member of the minority party, appointed by the Speaker of the House and two members of the Senate, one of whom shall be a member of the majority party and one of whom shall be a member of the minority party, appointed by the Senate President;

(f) The executive director or designee of the Kentucky Association of State Employees;

(g) Three citizen members, one of whom shall be a former consumer of state agency child protective services, appointed by the Legislative Research Commission;

(h) Two independent co-chairs, both of whom shall be appointed by the Legislative Research Commission;

(i) Other members as deemed necessary and appointed by the Legislative Research Commission.

(5) The task force shall conduct its first meeting no later than April 15, 2007. Any state employee member of the task force shall be protected from reprisals pursuant to KRS 61.102.

(6) The task force shall establish a field staff subcommittee and may establish other subcommittees as deemed necessary.

(a) The field staff subcommittee shall be composed of 20 front line staff from local offices of the Division of Service Regions. Two front line staff members from each region shall be elected by all staff members of the region and two at-large front line members shall be elected by all front line staff.

(b) Each member of the field staff subcommittee shall be a front line staff member; however, the number of supervisors shall not exceed the number of non-supervisory staff.

(c) Members of the field staff subcommittee shall be permitted to communicate and meet with other cabinet employees, legislators, and the public about the subcommittee or the task force.

(7) The task force may seek consultation from a national child welfare organization that has demonstrated expertise in caseload review.

(8) No later than December 15, 2007, the task force shall report and make recommendations that include but are not limited to the following issues:

(a) Staff salary, pay scale and pay equity, and career ladder issues;

(b) Staff recruitment and retention strategies, including but not limited to staff turnover rates per job classification, mentoring or partnering new staff, and retention incentives;

(c) Undergraduate and graduate education and training in social work and other degree programs regarding job preparation, including recruitment issues;

(d) Streamlining state government hiring processes for critical protective services positions;

(e) A definition for worker caseload, weighting measures, and a formula for determining worker caseload if applicable;

(f) Caseload averages as required by KRS 199.461 during the duration of the task force, including a recommendation on optimal caseloads;

(g) Staff safety issues, including but not limited to:

1. Staff needs for training on personal safety, threat assessment, de-escalation, and self-defense;

2. Emergency alert systems, global positioning technology, and personal safety alert devices for front line staff; and

3. Safe practices for exposure to and handling of hazardous or toxic materials or substances; and

(h) Staff training, technology, support, and administrative needs.

(9) All recommendations shall include estimated costs for implementation.

(10) Task force members and invited consultants, if applicable, shall not receive compensation for their duties but shall be reimbursed for expenses related to meeting attendance and associated duties with the task force pursuant to state employee travel administrative regulations. Department employees who are members of the task force or its subcommittees may attend meetings and perform duties related to the task force or its subcommittees as part of their official duties. The use of telecommunications is encouraged.

(11) The task force and its subcommittees shall have access to any department data and information necessary to meet the requirements of this section. To assist the task force, the department shall provide to the task force at its first meeting baseline personnel data that includes but is not limited to the number of staff positions by classification, salary ranges per classification, the number of staff vacancies by position and by county, and caseloads per state social services worker that indicate the total number of families and the number of family members involved.

(12) The report required under subsection (8) of this section shall be submitted to the Governor, the secretary of the cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare.

(13) The legislative task force on front line staff shall cease to exist on July 1, 2008, unless otherwise authorized by the General Assembly.

Section 6. Notwithstanding 2006 Ky. Acts Chapter 252, Part III, General Provisions, 5. Appropriations Expenditure Purpose and Transfer Restrictions, the secretary of the Cabinet for Health and Family Services shall be authorized to transfer moneys from the general fund, restricted funds, or federal funds, with the approval of the State Budget Director, to the extent funds are available and not otherwise obligated to carry out the provisions of KRS Chapters 194A, 200, 202A, 202B, 205, 209, 209A, 210, 211, 212, 213, 214, 215, 216A, 216B, 217, 217A, 217B, and 217C, up to a total of $2,500,000 in the 2006-2008 fiscal biennium from other budget units within the Cabinet to the Department for Community Based Services, Division of Service Regions, to address immediate emergency safety needs of front line staff, pending implementation of any recommendations of the legislative task force on front line staff pursuant to Section 5 of this Act, and the transfer of any funds pursuant to this section shall be subject to the provisions and notification requirements of KRS 48.630. There is hereby appropriated to the Cabinet for Health and Family Services, Department for Community Based Services, Division of Service Regions, $2,500,000 in General Fund moneys in fiscal year 2006-2007 to address safety needs of front-line staff which shall be expended in the following manner: $1,800,000 shall be utilized for visitation centers, $500,000 shall be utilized for updates to office space used by the Division of Service Regions, and $200,000 shall be utilized to begin procurement of emergency alert technology for front-line staff. Moneys appropriated pursuant to this paragraph shall be placed in a trust and agency account to be used for the purposes set forth in this paragraph. The Cabinet shall submit quarterly updates to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare on expenditures made pursuant to this paragraph.

Notwithstanding KRS 45.229, any General Fund moneys appropriated for the purposes set forth in this section unexpended at the close of a fiscal year shall not lapse, but shall carry forward to the next fiscal year for the same purposes. It shall be the intent of the 2007 General Assembly that any portion of this section not fully implemented before the 2008 General Assembly shall be fully funded in fiscal biennium 2008-2010.

Section 7. Whereas the social workers employed by the Commonwealth of Kentucky are subject to dangerous circumstances, and children and citizens of the Commonwealth deserve an adequate response to allegations of adult or child abuse, neglect, or exploitation, an emergency is declared to exist and this Act takes effect upon it passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 362** is as follows:

HB 362, By amending the title to read "AN ACT relating to safety for state social workers, declaring an emergency, and making an appropriation therefor.".

The Committee on Health and Welfare reported **HB 112,** with Committee Substitute attached thereto, **HB 288,** with Committee Substitute attached thereto, **HB 314,** with Committee Substitute attached thereto, **HB 378, HB 431, HB 459,** with Committee Substitute and Committee Amendment attached thereto, and **HJR 13** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 112, AN ACT relating to perinatal care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 216B.185, the Office of Inspector General shall conduct an annual onsite licensing visit for all Level II, III, and IV nurseries, and any nursery with any other classification designated for a level of care beyond normal newborn care.

(2) The purpose of the inspection shall be to determine compliance with the most recent edition of the American Academy of Pediatrics and the American College of Obstetrics and Gynecology Guidelines for Perinatal Care. The inspection shall include but not be limited to a review of the quality assurance or improvement program, quality of care provided, adherence with nursing and speciality personnel and equipment requirements, and adherence to transport guidelines to ensure that a neonate receives the appropriate level of care. The cabinet shall analyze the infant mortality statistics for each nursery inspected.

(3) The cabinet may revoke the license or certificate of need for any nursery that fails to comply with the Guidelines for Perinatal Care.

The Committee Substitute to **HB 112** is as follows:

HB 112, AN ACT relating to perinatal care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health and Family Services shall establish a task force to develop strategies to measure the quality of care provided by level II and III nurseries, increase the accountability of the regional perinatal system of care in

Kentucky, and decrease perinatal mortality. The committee membership shall include but not be limited to the following:

(1) The Secretary of the Cabinet for Health and Family Services or a designee;

(2) The Commissioner of the Department for Public Health or a designee;

(3) One physician employed by the Department for Public Health who has expertise in prenatal care;

(4) One representative of the University of Kentucky who has expertise in perinatal care;

(5) One representative of the University of Louisville who has expertise in perinatal care;

(6) One representative of a large metropolitan hospital that provides level II or level III perinatal care;

(7) One representative of a hospital that provides level II perinatal care in a rural area;

(8) One representative of the Kentucky Hospital Association; and

(9) One registered nurse with expertise in level II perinatal care.

Section 2. The task force shall:

(1) Design a voluntary reporting system for level II and III nurseries, including the identification of quality indicators and data to be collected;

(2) Analyze best practices from other states;

(3) Identify strategies to ensure compliance with national practice guidelines for perinatal care in regard to appropriate facilities, equipment, services, and trained medical, nursing, respiratory, and other support personnel;

(4) Make recommendations to the Department for Public Health regarding the improvement of the quality of perinatal care in Kentucky; and

(5) Analyze the policies of level II nurseries related to transport to an appropriate tertiary care perinatal program.

Section 3. The Commissioner of the Department for Public Health shall report the activities of the task force to the Interim Joint Committee on Health and Welfare by November 1, 2007.

Section 4. The Clerk of the House of Representatives is directed to mail a copy of this Act to the Commissioner of the Department for Public Health and the Secretary of the Cabinet for Health and Family Services.

HB 288, AN ACT relating to licensure of professionals who provide therapeutic care to persons with hearing and related communication disorders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 334A.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Speech-Language Pathology and Audiology;

(2) "Person" means any individual, organization, or corporate body, except that only individuals can be licensed under this chapter;

(3) "Speech-language pathologist" means one who practices speech-language pathology. A speech-language pathologist may describe himself to the public by any title or description of services incorporating the words "speech-language pathologist," "speech-language pathology," "speech-language therapy," "speech-language correction," "speech-language correctionist," "speech-language therapist," "speech clinic," "speech clinician," "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatrist," "communication disorders," or any similar titles or descriptions;

(4) "The practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, evaluation, consultation, remediation, counseling, instruction, and research related to the development and disorders of speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies for the purpose of designing and implementing programs for the amelioration of these disorders and conditions. Any representation to the public by title or by description of services, methods, or procedures for the evaluation, counseling, remediation consultation, measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, instruction, and research of persons suffering or suspected of suffering from conditions or disorders affecting speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies shall be considered to be the practice of speech-language pathology;

(5) "Audiologist" is defined as one who practices audiology. An audiologist may describe himself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," or any similar titles or descriptions of service;

(6) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing,

appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related to hearing loss; planning, directing, conducting, or participating in identification and hearing conservation programs; and habilitative and rehabilitative programs, including hearing aid recommendations and evaluation, auditory training, or speech reading;

(7) "Continuing professional education" in speech-language pathology and audiology consists of planned learning experiences beyond a basic educational program leading to a degree. These experiences are designed to promote knowledge, skills, and attitudes of speech-language pathology and audiology practitioners to enable them to provide improved health care to the public;~~[.]~~

(8) "Speech-language pathology assistant" means one who assists in the practice of speech-language pathology only under the supervision and direction of an appropriately qualified supervisor and only within the public school system in the Commonwealth. Any speech pathology services provided without appropriate supervision or outside the public school system shall be deemed to be the unlicensed practice of speech pathology and shall subject the offending party to penalties established pursuant to KRS 334A.990;~~[.]~~

(9) "Assisting in the practice of speech pathology" means the provision of certain specific components of a speech or language service program provided by a speech-language pathology assistant under the supervision and direction of an appropriately qualified supervisor.

(a) If the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to a speech-language pathology assistant:

1. Conduct speech-language and hearing screenings without interpretation following specified screening protocols developed by a speech-language pathologist and audiologist, respectively;
2. Follow documented treatment plans or protocols as prescribed by the supervisor;
3. Document student progress toward meeting established objectives as stated in the treatment plan;
4. Provide direct treatment assistance to identified students under the supervision of the supervisor;
5. Assist with clerical and other related duties as directed by the supervisor;
6. Report to the supervisor about the treatment plan based on a student's performance;
7. Schedule activities, prepare charts, records, graphs, or otherwise display data. This shall not include report generation;
8. Perform simple checks and maintenance of equipment;
9. Participate with the supervisor in research projects, inservice training, and public relations programs;
10. Assist in the development and maintenance of an appropriate schedule for service delivery;
11. Assist in implementing collaborative activities with other professionals;
12. Assist in administering tests for diagnostic evaluations and progress monitoring; and
13. Participate in parent conferences, case conferences, or any interdisciplinary team in consultation with, or in the presence of, the supervisor.

(b) The following activities shall be outside the scope of practice of the speech-language pathology assistant:

1. Performing any activity which violates the code of ethics promulgated by the board by administrative regulation;
2. Interpreting test results, or performing diagnostic evaluations without supervision;
3. Conducting client or family counseling without the recommendation, guidance, and approval of the supervisor;
4. Writing, developing, or modifying a student's individualized treatment plan in any way without the recommendation, guidance, and approval of the supervisor;
5. Treating students without following the individualized treatment plan prepared by the supervisor or without access to supervision;
6. Signing any due process document without the co-signature of the supervisor;
7. Selecting or discharging students;
8. Disclosing clinical or confidential information, either orally or in writing, to anyone not designated by the supervisor;
9. Making referrals for additional services; and
10. Representing himself or herself as something other than a speech-language pathology assistant;~~[.]~~

(10) "Supervisor" means a person who holds a Kentucky license as a speech-language pathologist or who holds Education Professional Standards Board master's level certification as a teacher of exceptional children in the areas of speech and communication disorders as established by administrative regulation;~~[.]~~

(11) "Interim license" means a license issued by the board pursuant to Section 2 of this Act to a person for the purpose of completing the supervised postgraduate professional experience required under that section prior to an application for licensure as a speech-language pathologist or a speech-language pathology assistant;

(12) "Provisional license" means a license issued by the board pursuant to Section 3 of this Act to a fourth-year student who is enrolled in an accredited graduate program in audiology for the purpose of completing the graduate professional experience required under that section; and

(13) "Temporary license" means a license that may be issued by the board administrator pursuant to Section 4 of this Act to any applicant who has met all the requirements for permanent licensure in accordance with that section.

Section 2. KRS 334A.035 is amended to read as follows:

(1) ***(a)*** A person who has a master's degree in the area of speech-language pathology or ***communication disorders, or is currently enrolled in a doctoral degree program with emphasis in speech-language pathology or communication disorders, or has***[~~audiology or~~] substantive equivalent course work as defined by the board's administrative regulations and who has completed supervised direct clinical practicum with individuals presenting a variety of disorders of communication ***and swallowing***, the experience being obtained with a training institution or in one (1) of its cooperating programs, shall apply for an interim license during the time that person is completing postgraduate professional experience deemed necessary by the board. ***The***[~~This~~] postgraduate professional experience shall be completed under the supervision of a speech-language pathologist who holds a Kentucky license, ***or certification by other accrediting bodies at the discretion of the board***[~~if the applicant is seeking interim licensure in speech-language pathology, or under an audiologist who holds a Kentucky license, if the applicant is seeking interim licensure in audiology~~].

(b) A person with interim licensure shall make every effort to take and pass ***a national***[~~an~~] examination ***in speech-language pathology*** approved by the board ***at the time of the application for licensure. If unsuccessful with the examination, the licensee shall submit documentation of the applicant's preparation to take the national examination and continue to practice under supervision in accordance with this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish the documentation required under this subsection.***

(c) Upon completion of postgraduate professional experience deemed necessary by the board, the speech-language pathologist[~~ or audiologist~~] shall make ***an***[~~immediate~~] application to the board ***within thirty (30) days*** for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

(d) An interim license shall not exceed a period of twenty-four (24) months without board approval.

(2) ***(a)*** A person who has a baccalaureate degree in the area of speech-language pathology ***or communication disorders*** as defined by administrative regulation[~~ and who does not hold a valid and current master's degree level credential as a speech-hearing specialist issued by the Education Professional Standards Board,~~] shall apply for an interim license as a speech-language pathology assistant during the time that person is completing their professional experience as established by the board by administrative regulation. ***The postgraduate***[~~This~~] professional experience shall be completed under the supervision of an appropriately qualified supervisor.

(b) Upon completion of the ***postgraduate*** professional experience ***deemed necessary by the board***, the speech-language pathology assistant shall make immediate application to the board ***within thirty (30) days*** for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

(c) An interim license shall not exceed a period of twenty-four (24) months without board approval.

(3) ***(a) A speech-language pathologist employed solely by the public schools in a certified position who holds a teacher certification in communication disorders issued by the Education Professional Standards Board shall be exempt from holding a license issued by the board.***

(b) A speech-language pathologist in a classified position who does not hold a teacher certification in communication disorders issued by the Education Professional Standards Board shall apply for and maintain appropriate licensure.

(c) The public school speech-language pathologist shall determine from the local school board how his or her position is categorized[~~In order to regulate the quality of professional service to children in the public schools of the Commonwealth, any speech-language pathologist employed by the public schools shall apply for and maintain appropriate licensure until the time the Kentucky Education Professional Standards Board promulgates an administrative regulation requiring speech-language pathologists to meet the requirements of KRS 334A.050(2)(a) and (b)~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) A person who has a master's degree in the area of audiology before January 1, 2008, or is currently enrolled in a doctoral degree program with emphasis in audiology, and who has completed a supervised direct clinical practicum with individuals presenting a variety of disorders of communication shall apply for a provisional license during the

time that the person is completing the graduate professional experience. The graduate professional experience shall be obtained with a training institution or in one (1) of its cooperating programs and completed under the supervision of an audiologist who holds a valid Kentucky license, or certification by other accrediting bodies at the discretion of the board.

(2) A person with a provisional license shall make every effort to take and pass a national examination in audiology approved by the board in order to apply for licensure.

(3) Upon graduation from the degree program, the audiologist shall make application within thirty (30) days for permanent licensure if all requirements have been competed satisfactorily or for renewal of the provisional licensure.

(4) A provisional license shall not exceed a period of twenty-four (24) months without approval of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) The board administrator shall have the authority, with the approval of the board, to issue a temporary license to practice as a speech-language pathologist, speech-language pathology assistant, or audiologist to any applicant who has met the requirements for licensure for the respective profession.

(2) A speech-language pathologist, speech-language pathology assistant, or audiologist may practice his or her respective profession under a temporary license until the next board meeting, at which time, the full board shall either extend the temporary license, issue a license, renew a license, or deny a license. If a license is denied, the person with a temporary license shall immediately cease the practice granted under the temporary license upon notification by the board.

(3) A person may practice his or her respective profession under a temporary license for no longer than one hundred eighty (180) days.

SECTION 5. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

To be eligible for licensure by the board as a speech-language pathologist, the applicant shall:

(1) Show evidence of meeting the following professionally accepted academic and practicum standards:

(a) Master's degree in the area of speech-language pathologist or communication disorders, or substantive equivalent. The board shall promulgate administrative regulations to specify the required course work; and

(b) Completion of supervised direct clinical practicum with individuals presenting with a variety of disorders of communications and swallowing. The experience shall be obtained with a training institution, or in one (1) of its cooperating programs; and

(2) Pass a national examination approved by the board at the time of the application for licensure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

To be eligible for licensure by the board as an audiologist, the applicant shall:

(1) Before January 1, 2008, hold a master's or doctorate degree in audiology;

(2) On or after January 1, 2008:

(a) Hold a doctor of audiology degree or its equivalent from an accredited program, as determined by the board; and

(b) Show evidence of completion of a clinical rotation of no less than nine (9) months if the applicant has not held a provisional license in audiology; and

(3) Pass a national examination approved by the board at the time of the application for licensure.

SECTION 7. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) The board may grant a license to an applicant who presents proof of current licensure in good standing in a state which has standards that are at least equivalent to those of this state.

(2) An applicant shall provide letters of good standing, a copy of the national examination score, and a certified university transcript.

Section 8. KRS 334A.170 is amended to read as follows:

(1) Each licensed speech-language pathologist, speech-language pathology assistant, or audiologist shall ***biennially***[~~annually~~], on or before January ***31***[~~30~~], pay to the board a renewal fee not to exceed ***one hundred fifty dollars ($150)***[~~seventy-five dollars ($75)~~] for a renewal of his license. A thirty (30) day grace period shall be allowed after January ***31***[~~30~~], during which time licenses may be renewed on payment of a renewal fee plus grace period fee which combined shall not exceed ***one hundred eighty dollars ($180)***[~~ninety dollars ($90)~~]. After expiration of the grace period, the board may renew each license upon payment of a renewal fee plus a delinquency fee which combined shall not exceed ***two hundred fifty dollars ($250)***[~~one hundred twenty-five dollars ($125)~~]. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, if the renewal application is made within five (5) years from the date of expiration.

(2) A suspended license is subject to expiration and shall be renewed as provided in this chapter, but the renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order of judgment by which the license was suspended. A license revoked

on disciplinary grounds shall be subject to expiration as provided in this chapter, but it shall not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(3) A person who fails to renew his license within the five (5) years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter. The person may apply for and obtain a new license if he meets the requirements of this chapter.

(4) A person applying for renewal of licensure shall show evidence of completion of continuing professional education in speech-language pathology or audiology as prescribed by the board by administrative regulation.

The Committee Substitute to **HB 288** is as follows:

HB 288, AN ACT relating to licensure of professionals who provide therapeutic care to persons with hearing and related communication disorders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 334A.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Speech-Language Pathology and Audiology;

(2) "Person" means any individual, organization, or corporate body, except that only individuals can be licensed under this chapter;

(3) "Speech-language pathologist" means one who practices speech-language pathology. A speech-language pathologist may describe himself to the public by any title or description of services incorporating the words "speech-language pathologist," "speech-language pathology," "speech-language therapy," "speech-language correction," "speech-language correctionist," "speech-language therapist," "speech clinic," "speech clinician," "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatrist," "communication disorders," or any similar titles or descriptions;

(4) "The practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, evaluation, consultation, remediation, counseling, instruction, and research related to the development and disorders of speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies for the purpose of designing and implementing programs for the amelioration of these disorders and conditions. Any representation to the public by title or by description of services, methods, or procedures for the evaluation, counseling, remediation consultation, measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, instruction, and research of persons suffering or suspected of suffering from conditions or disorders affecting speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies shall be considered to be the practice of speech-language pathology;

(5) "Audiologist" is defined as one who practices audiology. An audiologist may describe himself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," or any similar titles or descriptions of service;

(6) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related to hearing loss; planning, directing, conducting, or participating in identification and hearing conservation programs; and habilitative and rehabilitative programs, including hearing aid recommendations and evaluation, auditory training, or speech reading;

(7) "Continuing professional education" in speech-language pathology and audiology consists of planned learning experiences beyond a basic educational program leading to a degree. These experiences are designed to promote knowledge, skills, and attitudes of speech-language pathology and audiology practitioners to enable them to provide improved health care to the public***;***~~[.]~~

(8) "Speech-language pathology assistant" means one who assists in the practice of speech-language pathology only under the supervision and direction of an appropriately qualified supervisor and only within the public school system in the Commonwealth. Any speech pathology services provided without appropriate supervision or outside the public school system shall be deemed to be the unlicensed practice of speech pathology and shall subject the offending party to penalties established pursuant to KRS 334A.990***;***~~[.]~~

(9) "Assisting in the practice of speech pathology" means the provision of certain specific components of a speech or language service program provided by a speech-language pathology assistant under the supervision and direction of an appropriately

qualified supervisor.

(a) If the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to a speech-language pathology assistant:

1. Conduct speech-language and hearing screenings without interpretation following specified screening protocols developed by a speech-language pathologist and audiologist, respectively;
2. Follow documented treatment plans or protocols as prescribed by the supervisor;
3. Document student progress toward meeting established objectives as stated in the treatment plan;
4. Provide direct treatment assistance to identified students under the supervision of the supervisor;
5. Assist with clerical and other related duties as directed by the supervisor;
6. Report to the supervisor about the treatment plan based on a student's performance;
7. Schedule activities, prepare charts, records, graphs, or otherwise display data. This shall not include report generation;
8. Perform simple checks and maintenance of equipment;
9. Participate with the supervisor in research projects, inservice training, and public relations programs;
10. Assist in the development and maintenance of an appropriate schedule for service delivery;
11. Assist in implementing collaborative activities with other professionals;
12. Assist in administering tests for diagnostic evaluations and progress monitoring; and
13. Participate in parent conferences, case conferences, or any interdisciplinary team in consultation with, or in the presence of, the supervisor.

(b) The following activities shall be outside the scope of practice of the speech-language pathology assistant:

1. Performing any activity which violates the code of ethics promulgated by the board by administrative regulation;
2. Interpreting test results, or performing diagnostic evaluations without supervision;
3. Conducting client or family counseling without the recommendation, guidance, and approval of the supervisor;
4. Writing, developing, or modifying a student's individualized treatment plan in any way without the recommendation, guidance, and approval of the supervisor;
5. Treating students without following the individualized treatment plan prepared by the supervisor or without access to supervision;
6. Signing any due process document without the co-signature of the supervisor;
7. Selecting or discharging students;
8. Disclosing clinical or confidential information, either orally or in writing, to anyone not designated by the supervisor;
9. Making referrals for additional services; and
10. Representing himself or herself as something other than a speech-language pathology assistant***;***[~~.~~]

(10) "Supervisor" means a person who holds a Kentucky license as a speech-language pathologist or who holds Education Professional Standards Board master's level certification as a teacher of exceptional children in the areas of speech and communication disorders as established by administrative regulation***;***[~~.~~]

(11) "Interim license" means a license issued by the board pursuant to Section 2 of this Act to a person for the purpose of completing the supervised postgraduate professional experience required under that section prior to an application for licensure as a speech-language pathologist or a speech-language pathology assistant;

(12) "Provisional license" means a license issued by the board pursuant to Section 3 of this Act to a fourth-year student who is enrolled in an accredited graduate program in audiology for the purpose of completing the graduate professional experience required under that section; and

(13) "Temporary license" means a license that may be issued by the board administrator pursuant to Section 4 of this Act to any applicant who has met all the requirements for permanent licensure in accordance with that section.

Section 2. KRS 334A.035 is amended to read as follows:

(1) ***(a)*** A person who has a master's degree in the area of speech-language pathology or ***communication disorders, or is currently enrolled in a doctoral degree program with emphasis in speech-language pathology or communication disorders, or has***[~~audiology or~~] substantive equivalent course work as defined by the board's administrative regulations and who has completed supervised direct clinical practicum with individuals presenting a variety of disorders of communication ***and swallowing***, the experience being obtained with a training institution or in one (1) of its cooperating programs, shall apply for an interim license during the time that person is

completing postgraduate professional experience deemed necessary by the board. ***The***[~~This~~] postgraduate professional experience shall be completed under the supervision of a speech-language pathologist who holds a Kentucky license, ***or certification by other accrediting bodies at the discretion of the board***[~~if the applicant is seeking interim licensure in speech-language pathology, or under an audiologist who holds a Kentucky license, if the applicant is seeking interim licensure in audiology~~].

(b) A person with interim licensure shall make every effort to take and pass ***a national***[~~an~~] examination ***in speech-language pathology*** approved by the board ***at the time of the application for licensure. If unsuccessful with the examination, the licensee shall submit documentation of the applicant's preparation to take the national examination and continue to practice under supervision in accordance with this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish the documentation required under this subsection.***

(c) Upon completion of postgraduate professional experience deemed necessary by the board, the speech-language pathologist[~~ or audiologist~~] shall make ***an***[~~immediate~~] application to the board ***within thirty (30) days*** for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

(d) An interim license shall not exceed a period of twenty-four (24) months without board approval.

(2) ***(a)*** A person who has a baccalaureate degree in the area of speech-language pathology ***or communication disorders*** as defined by administrative regulation[~~ and who does not hold a valid and current master's degree level credential as a speech-hearing specialist issued by the Education Professional Standards Board,~~] shall apply for an interim license as a speech-language pathology assistant during the time that person is completing their professional experience as established by the board by administrative regulation. ***The postgraduate***[~~This~~] professional experience shall be completed under the supervision of an appropriately qualified supervisor.

(b) Upon completion of the ***postgraduate*** professional experience ***deemed necessary by the board***, the speech-language pathology assistant shall make immediate application to the board ***within thirty (30) days*** for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

(c) An interim license shall not exceed a period of twenty-four (24) months without board approval.

(3) ***(a) A speech-language pathologist employed solely by the public schools in a certified position who holds a teacher certification in communication disorders issued by the Education Professional Standards Board shall be exempt from holding a license issued by the board.***

(b) A speech-language pathologist in a classified position who does not hold a teacher certification in communication disorders issued by the Education Professional Standards Board shall apply for and maintain appropriate licensure.

(c) The public school speech-language pathologist shall determine from the local school board how his or her position is categorized[~~In order to regulate the quality of professional service to children in the public schools of the Commonwealth, any speech-language pathologist employed by the public schools shall apply for and maintain appropriate licensure until the time the Kentucky Education Professional Standards Board promulgates an administrative regulation requiring speech-language pathologists to meet the requirements of KRS 334A.050(2)(a) and (b)~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) A person who has a master's degree in the area of audiology before January 1, 2008, or is currently enrolled in a doctoral degree program with emphasis in audiology, and who has completed a supervised direct clinical practicum with individuals presenting a variety of disorders of communication shall apply for a provisional license during the time that the person is completing the graduate professional experience. The graduate professional experience shall be obtained with a training institution or in one (1) of its cooperating programs and completed under the supervision of an audiologist who holds a valid Kentucky license, or certification by other accrediting bodies at the discretion of the board.

(2) A person with a provisional license shall make every effort to take and pass a national examination in audiology approved by the board in order to apply for licensure.

(3) Upon graduation from the degree program, the audiologist shall make application within thirty (30) days for permanent licensure if all requirements have been competed satisfactorily or for renewal of the provisional licensure.

(4) A provisional license shall not exceed a period of twenty-four (24) months without approval of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) The board administrator shall have the authority, with the approval of the board, to issue a temporary license to practice as a speech-language pathologist, speech-language pathology assistant, or audiologist to any applicant who has met the requirements for licensure for the respective profession.

(2) A speech-language pathologist, speech-language pathology assistant, or audiologist may practice his or her respective

profession under a temporary license until the next board meeting, at which time, the full board shall either extend the temporary license, issue a license, renew a license, or deny a license. If a license is denied, the person with a temporary license shall immediately cease the practice granted under the temporary license upon notification by the board.

(3) A person may practice his or her respective profession under a temporary license for no longer than one hundred eighty (180) days.

SECTION 5. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

To be eligible for initial licensure by the board as a speech-language pathologist, the applicant shall:

(1) Show evidence of meeting the following professionally accepted academic and practicum standards:

(a) Master's degree in the area of speech-language pathologist or communication disorders, or substantive equivalent. The board shall promulgate administrative regulations to specify the required course work; and

(b) Completion of supervised direct clinical practicum with individuals presenting with a variety of disorders of communications and swallowing. The experience shall be obtained with a training institution, or in one (1) of its cooperating programs; and

(2) Pass a national examination approved by the board at the time of the application for licensure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

To be eligible for initial licensure by the board as an audiologist, the applicant shall:

(1) Before January 1, 2008, hold a master's or doctorate degree in audiology;

(2) On or after January 1, 2008:

(a) Hold a doctor of audiology degree or its equivalent from an accredited program, as determined by the board; and

(b) Show evidence of completion of a clinical rotation of no less than nine (9) months if the applicant has not held a provisional license in audiology; and

(3) Pass a national examination approved by the board at the time of the application for licensure.

SECTION 7. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) The board may grant a license to an applicant who presents proof of current licensure in good standing in a state which has standards that are at least equivalent to those of this state.

(2) An applicant shall provide letters of good standing, a copy of the national examination score, and a certified university transcript.

Section 8. KRS 334A.170 is amended to read as follows:

(1) Each licensed speech-language pathologist, speech-language pathology assistant, or audiologist shall ***biennially***[~~annually~~], on or before January ***31***[~~30~~], pay to the board a renewal fee not to exceed ***one hundred fifty dollars ($150)***[~~seventy-five dollars ($75)~~] for a renewal of his license. A thirty (30) day grace period shall be allowed after January ***31***[~~30~~], during which time licenses may be renewed on payment of a renewal fee plus grace period fee which combined shall not exceed ***one hundred eighty dollars ($180)***[~~ninety dollars ($90)~~]. After expiration of the grace period, the board may renew each license upon payment of a renewal fee plus a delinquency fee which combined shall not exceed ***two hundred fifty dollars ($250)***[~~one hundred twenty-five dollars ($125)~~]. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, if the renewal application is made within five (5) years from the date of expiration.

(2) A suspended license is subject to expiration and shall be renewed as provided in this chapter, but the renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order of judgment by which the license was suspended. A license revoked on disciplinary grounds shall be subject to expiration as provided in this chapter, but it shall not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(3) A person who fails to renew his license within the five (5) years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter. The person may apply for and obtain a new license if he meets the requirements of this chapter.

(4) A person applying for renewal of licensure shall show evidence of completion of continuing professional education in speech-language pathology or audiology as prescribed by the board by administrative regulation.

HB 314, AN ACT relating to foster care parents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 605.120 is amended to read as follows:

(1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children who would otherwise be placed in foster care or who are placed by the cabinet in a foster home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.

(2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.

(3) The cabinet shall review reimbursement rates paid to foster parents on a biennial basis and shall issue a report in October of each odd-numbered year to the Legislative Research Commission comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.

(4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.

(5) To the extent funds are available, the cabinet may establish a program for kinship care that provides a more permanent placement with a qualified relative for a child that would otherwise be placed in foster care due to abuse, neglect, or death of both parents.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section. The administrative regulations shall include uniform conditions and requirements regarding:

- (a) Eligibility requirements for the kinship caregiver and the child;
- (b) Financial assistance and payment rates; and
- (c) Support services and case management services that may be provided to the kinship caregiver or the child.

(7) Foster parents shall have the authority to make decisions regarding haircuts and hairstyles for foster children who are in their care for thirty (30) days or more.

(8) A foster parent may request reasonable reimbursement from the cabinet for the cost of required physical exams and tests for communicable or infectious diseases, including a tuberculosis test. The foster parent may only request reimbursement for verified costs not covered, or not paid in full, by another source of coverage.

(9) The cabinet shall reimburse foster parents who submit a request for the reimbursement of reasonable costs related to required physical exams and tests for communicable or infectious diseases, including a tuberculosis test. The cabinet shall only reimburse for verified costs not covered, or not paid in full, by another source of coverage.

(10) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of subsections (8) and (9) of this section.

The Committee Substitute to **HB 314** is as follows:

HB 314, AN ACT relating to foster care parents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 605.120 is amended to read as follows:

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(2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.

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(4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.

(5) To the extent funds are available, the cabinet may establish a program for kinship care that provides a more permanent placement with a qualified relative for a child that would otherwise be placed in foster care due to abuse, neglect, or death of both parents.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section. The administrative regulations shall include uniform conditions and requirements regarding:

- (a) Eligibility requirements for the kinship caregiver and the child;
- (b) Financial assistance and payment rates; and
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(9) To the extent funds are available, the cabinet shall reimburse foster parents who submit a request for the reimbursement of reasonable costs related to required physical exams and tests for communicable or infectious diseases, including a tuberculosis test. The cabinet shall only reimburse for verified costs not covered, or not paid in full, by another source of coverage.

(10) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of subsections (8) and (9) of this section.

HB 378, AN ACT relating to the timing of history and physical examinations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.175 is amended to read as follows:

(1) A physician assistant, credentialed under KRS Chapter 311, when those duties and responsibilities are within the scope of training received in an approved program and within the scope of the supervising physician's practice, or an advanced registered nurse practitioner licensed under KRS Chapter 314, may:

- (a) Perform a history and physical examination for a patient admitted to an acute care or psychiatric hospital licensed under this chapter; and
- (b) Order and review continuation of restraints and seclusion as a health care practitioner in accordance with 42 C.F.R. 482.13.

(2) A history and physical examination shall be performed no more than ***thirty (30)***[~~seven (7)~~] days before or twenty-four (24) hours after a patient is admitted to an acute care or psychiatric hospital licensed under this chapter.

(3) The history and physical examination that has been performed in compliance with subsection (2) of this section is transferable to another licensed level of care within the same hospital.

(4) The Cabinet for Health and Family Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the content of the history and physical examination required by subsection (2) of this section performed in an acute or psychiatric hospital that shall be used by the licensing entity.

HB 431, AN ACT relating to health data collection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

- (a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;
- (b) Apply for and accept any funds, property, or services from any person or government agency;
- (c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and
- (d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system***, including but not limited to information on charges for health care services and the quality and outcomes of health care services***, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health-care costs;
2. Health-care quality and outcomes;
3. Health-care providers and health services; and
4. Health insurance costs;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) No later than thirty (30) days after July 15, 2005, appoint and convene a permanent cabinet advisory committee. The committee shall advise the secretary on the collection, analysis, and distribution of consumer-oriented information related to the health care system, the cost of treatment and procedures, outcomes and quality indicators, and policies and regulations to implement the electronic collection and transmission of patient information (e-health) and other cost-saving patient record systems. At a minimum, the committee shall be composed of the following:

1. Commissioner of the Department for Public Health;
2. Commissioner of the Department for Mental Health and Mental Retardation Services;
3. Commissioner of the Department for Medicaid Services;
4. Executive director of the Office of Insurance;
5. Physician representatives;
6. Hospital representatives;
7. Health insurer representatives;
8. Consumers; and
9. Nonphysician health care providers.

(f) The cabinet advisory committee shall utilize the Health Services Data Advisory Committee as a subcommittee, which shall include a member of the Division of Women's Physical and Mental Health, to define quality outcome measurements and to advise the cabinet on technical matters***,*** including ***but not limited to a review of administrative regulations promulgated pursuant to KRS Chapter 13A,*** proper interpretation of the data***,*** and the ***most cost-efficient*** manner in which it should be published and disseminated to the public, state and local leaders in health policy, health facilities, and health-care providers. ***The Health Services Data Advisory Committee shall review and make recommendations to the cabinet advisory committee regarding exploration of technical matters related to data from other health care providers and shall make recommendations on methods for risk-adjusting any data prepared and published by the cabinet.***

(3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required under KRS 216.2920 to 216.2929. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 2. KRS 216.2925 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report ***on a quarterly basis***[~~, on a periodic basis, which may include quarterly reporting,~~] information regarding the charge for and quality of the procedures and health-care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. On at least a biennial basis, the cabinet shall conduct a statistical survey that addresses the status of women's health, specifically including data on patient age, ethnicity, geographic region, and payor sources. The cabinet shall rely on data from readily available reports and statistics whenever possible.

(2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services

or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

(a) A list of medical conditions, health services, and procedures for which ***data on*** charge***,***[~~ and~~] quality***, and outcome***[~~data~~] shall be collected and published[~~ at specified time intervals and in a specified manner~~];

(b) A timetable for filing[~~ data, which may include quarterly reporting of the~~] information provided for under paragraph (a) of this subsection ***on a quarterly basis***;

(c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;

(d) An acceptable format for data submission which shall include use of the uniform***:***

1. Health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet ***if***[~~, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or~~] in the form of hard copy; ***or***

2. Electronic submission formats as required under the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. sec. 300gg et seq., in the form of magnetic computer tape, computer diskettes, or other electronic media through an electronic network;

(e) Procedures to allow health-care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and

(f) Procedures pertaining to the confidentiality of data collected.

(3) The cabinet shall coordinate ***but not duplicate*** its data-gathering activities with other data-collection activities conducted by the Office of Insurance, as well as other state ***and national*** agencies which collect health-related service, utilization, ***quality, outcome,*** financial, and health-care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

(4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health-care charges and quality.

(5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

(6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.

(7) The Cabinet for Health and Family Services shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135***, the Professional 837 (ASC X12N 837) format, the Institutional 837 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare and Medicaid Services***.

Section 3. KRS 216.2927 is amended to read as follows:

(1) The following types of data shall be deemed as relating to personal privacy and, except by court order, shall not be published or otherwise released by the cabinet or its staff and shall not be subject to inspection under KRS 61.870 to 61.884:

(a) Any data, summary of data, correspondence, or notes that identify or could be used to identify any individual patient or member of the general public, unless the identified individual gives written permission to release the data or correspondence;

(b) Any correspondence or related notes from or to any employee or employees of a provider if the correspondence or notes identify or could be used to identify any individual employee of a provider, unless the corresponding persons grant permission to release the correspondence; and

(c) Data considered by the cabinet to be incomplete, preliminary, substantially in error, or not representative, the release of which could produce misleading information.

(2) Health care providers submitting required data to the cabinet shall not be required to obtain individual permission to release the data, except as specified in subsection (1) of this section, and, if submission of the data to the cabinet complies with pertinent administrative regulations promulgated pursuant to KRS Chapter 13A, shall not be deemed as having violated any statute or administrative regulation protecting individual privacy.

(3) No less than sixty (60) days after the annual report or reports are published and except as otherwise provided, the cabinet shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public.

(a) Persons or organizations requesting use of the data shall agree to abide by a public-use data agreement and by HIPPA privacy rules referenced in 45 C.F.R. Part 164. The public-use data agreement shall include at a minimum a prohibition against the sale or further release of data, and guidelines for the use and analysis of the data released to the public related to provider quality, outcomes, or charges;

(b) [~~The aggregate data shall be made available in both printed format and in a standard electronic format which is readable by commonly available software for personal computers.~~]Single copies of the printed data shall be made available to individuals at no cost. The cabinet may impose a fee[~~ no greater than that necessary to cover its costs~~] for providing electronic or multiple printed copies of the data. At least one (1) printed and one (1) electronic copy of the aggregate data shall be provided without charge to the Legislative Research Commission*; and*

(c) The Health Services Data Advisory Committee shall review at least annually current protocols related to the release of data under this subsection and shall make recommendations to the cabinet advisory committee established under KRS 216.2923.

(4) Collection of data about individual patients shall be in a nonidentifying numeric form and shall not include a patient's name or Social Security number. Any person who receives information identifying a patient through error or any other means shall return all copies of the information immediately.

(5) All data and information collected shall be kept in a secure location and under lock and key when specifically responsible personnel are absent.

(6) Only designated cabinet staff shall have access to raw data and information. The designated staff shall be made aware of their responsibilities to maintain confidentiality. Staff with access to raw data and information shall sign a statement indicating that the staff person accepts responsibility to hold that data or identifying information in confidence and is aware of penalties under state or federal law for breach of confidentiality. Data which, because of small sample size, breaches the confidence of individual patients, shall not be released.

(7) Any employee of the cabinet who violates any provision of this section shall be fined not more than five hundred dollars ($500) for each violation or be confined in the county jail for not more than six (6) months, or both, and shall be removed and disqualified from office or employment.

Section 4. KRS 216.2929 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall *make available on its Web site information on charges for health care services* at least annually[~~, on or before July 1, prepare and publish,~~] in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons *between every*[~~, a report or reports on health care charges, quality, and outcomes which includes diagnosis-specific or procedure-specific comparisons for each~~] hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.

(a) Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the total number of patients represented by all charges, and shall be risk-adjusted according to recommendations of the Health Services Data Advisory Committee.

(b) The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given thirty (30) days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the Web site and as part of any printed report of the data.

(c) The cabinet shall only provide linkages to organizations that publicly report comparative-charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk-adjusted, and meets the requirements of paragraph (b) of this subsection.

(2) *The cabinet shall make information available on its Web site at least annually describing quality and outcome measures in understandable language with sufficient explanations to allow consumers to draw meaningful comparison between every hospital and ambulatory facility in the Commonwealth and other provider groups as relevant data becomes available.*

(a) 1. The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the Centers for Medicare and Medicaid Services; or

2. The cabinet shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:

a. The Centers for Medicare and Medicaid Services;

b. The Agency for Healthcare Research and Quality;

c. The Joint Commission on the Accreditation of Health Care Organizations; and

d. Other organizations that publicly report relevant outcome data for Kentucky providers as determined by the Health Services Data Advisory Committee.

(b) The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that are based upon current scientific evidence or relevant national professional consensus and have definitions and calculation methods openly available to the general public at no charge.

(3) Any report the cabinet disseminates or refers the public to shall:

(a) Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;

(b) Meet the requirements of paragraph (b) of subsection (1) of this section;

(c) Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and

(d) Explain any limitations of the data and how the data should be used by consumers.

(4) The cabinet shall at least annually, on or before October 1, submit[~~ to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor~~] a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.

(5)[~~(3)~~] The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year,[~~ to the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare and to the Governor~~] on matters pertaining to comparative health-care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health-care costs, and any recommendations regarding its data collection and dissemination activities.

(6)[~~(4)~~] The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall[~~ be transmitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor and shall~~] contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

(7) The reports required under subsections (4), (5), and (6) of this section shall be submitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor.

HB 459, AN ACT relating to certificates of death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, and if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the death certificate shall be marked "Amended." In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Vital Statistics Branch. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and

2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Vital Statistics Branch shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free ***certification***~~[verification]~~-of-death statements shall be provided to the funeral director by the Vital Statistics Branch for every death in the Commonwealth of Kentucky ***within two (2) working days.***

(a) If the funeral director does not receive the cerification-of-death statements within two (2) working days, the Vital Statistics Branch shall pay to the funeral director the amount of five hundred dollars ($500) for each day over the two (2) working days.

(b) Any official of the Vital Statistics Branch who does not carry out the duties of his or her office, including the timely provision of cerification-of-death statements, shall be guilty of first degree official misconduct pursuant to KRS 522.020.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health and Family Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health and Family Services and the local health department. The Cabinet for Health and Family Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health and Family Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

The Committee Substitute to **HB 459** is as follows:

HB 459, AN ACT relating to certificates of death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.041 is amended to read as follows:

(1) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports required by this chapter, or by administrative regulations adopted hereunder, shall include, as a minimum, the items recommended by the federal agency responsible for national vital statistics.

(2) Each certificate, report, and other documents required by this chapter shall be on a form or in a format prescribed by the cabinet with due consideration for national uniformity. All certificates shall be typewritten with the exception of required signatures which shall be written legibly in unfading black ***or blue*** ink.

(3) No certificate shall be held to be complete and correct that does not supply all items of information called for therein or satisfactorily account for their omission, except as provided in KRS 199.570(3). If a certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(4) All vital records shall contain the data required for registration.

(5) No person shall charge or collect from any member of a family in which a birth or death occurs, any fee for completing and filing a report, or any other act or duty imposed upon them by this chapter.

Section 2. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall***:***

(a) Call attention to the defects in the certificate***;***

(b) Send the certificate to[~~and require~~] the ***funeral director, physician, dentist, chiropractor, or coroner***[~~person~~] responsible for the entry to complete or correct it***; and***

(c) Notify the entity who submitted the certificate that the certificate was returned to the funeral director, physician, dentist, chiropractor, or coroner responsible for the entry to complete or correct it.

The sending of the incomplete or unsatisfactory certificate to a funeral director for an entry which he or she is not responsible shall not satisfy the requirements of this subsection. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, and if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the death certificate shall be marked "Amended." In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Vital Statistics Branch. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and
2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Vital Statistics Branch shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Vital Statistics Branch for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been

filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health and Family Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health and Family Services and the local health department. The Cabinet for Health and Family Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health and Family Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

The Committee Amendment No. 1 Title to **HB 459** is as follows:

HB 459, Amend the title to read as follows "AN ACT relating to vital statistics.".

HJR 13, A JOINT RESOLUTION directing the Kentucky Alzheimer's Disease and Related Disorders Advisory Council and the Office on Alzheimer's Disease and Related Disorders to assess the current and future impact of Alzheimer's disease in Kentucky, to examine the existing services and resources addressing the needs of persons with Alzheimer's disease and their families and caregivers, and to develop a strategy to mobilize a state response to this public health crisis.

WHEREAS, Alzheimer's disease is a slow, progressive disorder of the brain that results in loss of memory and other cognitive function and, eventually, results in death; and

WHEREAS, Alzheimer's disease is accompanied by memory loss, poor judgment, changes in personality and behavior, and a tendency to wander resulting in an increased risk for accidental injury, getting lost, abuse, neglect, and exploitation of afflicted persons; and

WHEREAS, over 74,000 people in Kentucky are afflicted with Alzheimer's disease or a related dementia including one in ten people over the age of 65 years and nearly one-half of all persons over the age of 85 years; and

WHEREAS, the greatest risk factor for Alzheimer's disease is increasing age. More than 90 percent of Alzheimer's cases develop in people older than 65 years; and

WHEREAS, the number of persons in Kentucky with Alzheimer's disease is expected to rise to over 97,000 by 2025 as the baby boom generation enters the age of greatest risk for the disease; and

WHEREAS, a person with Alzheimer's disease may live an average of eight years and up to 20 years after diagnosis; and

WHEREAS, the majority of persons with Alzheimer's disease are cared for by family and friends at home; and

WHEREAS, caregivers of persons with Alzheimer's disease are prone to high levels of stress, depression, and health problems; and

WHEREAS, by 2010, Medicare costs for beneficiaries with Alzheimer's disease are expected to increase by 75 percent and Medicaid costs for residential dementia care are expected to increase by 14 percent; and

WHEREAS, the Commonwealth of Kentucky has recently undertaken the Kentucky Elder Readiness Initiative (KERI) to examine its ability to meet the needs of a rapidly aging population and the Long Term Living Initiative to examine Medicaid and continuum of care services; and

WHEREAS, the Commonwealth needs to assess the current and future impact of Alzheimer's disease on Kentuckians and state systems, programs, and services to ensure an integrated, comprehensive, coordinated, and up-to-date strategy to address the needs of this growing segment of Kentucky's population; and

WHEREAS, the General Assembly established the Office on Alzheimer's Disease and Related Disorders and the Alzheimer's Disease and Related Disorders Advisory Council within the Cabinet for Health and Family Services; and

WHEREAS, the Office and Council are charged with overseeing policy and services affecting persons with dementia, their families, and caregivers, recommending delivery of services in the most effective and efficient manner possible, assisting with the dissemination of program and educational materials, promoting public and professional awareness and education of dementia, improving access to needed services and programs, and enhancing the quality of life for persons affected by Alzheimer's; and

WHEREAS, state programs, resources, information, and services serving this population are fragmented and many are outdated;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health and Family Services shall direct the Kentucky Alzheimer's Disease and Related Disorders Advisory Council and the Office on Alzheimer's Disease and Related Disorders to conduct a study that assesses the current and future impact of Alzheimer's disease in Kentucky, examines the existing services and resources addresses the needs of persons with Alzheimer's disease and their families and caregivers, and identifies a strategy to mobilize a state response. The study shall include an assessment and examination of:

(1) Trends in the size of the Alzheimer's disease population and its needs, including the changing population with dementia, including but not limited to:
    (a) The role of the state in long-term care, family caregiver support and assistance to persons with early-stage and early-onset Alzheimer's disease; and
    (b) State policy regarding persons with Alzheimer's disease and developmental disabilities;
(2) Existing services, resources, and capacity, including but not limited to:
    (a) Type, cost, and availability of dementia services;
    (b) The capacity of public safety and law enforcement to respond to persons with Alzheimer's disease;
    (c) The availability of home and community-based resources for persons with Alzheimer's disease and respite care to assist families;
    (d) The inventory of long-term care special dementia care units;
    (e) The adequacy and appropriateness of geriatric-psychiatric units for persons with behavior disorders associated with Alzheimer's disease and related dementia;
    (f) The assisted living residential options for persons with dementia; and
    (h) The state support of Alzheimer's disease research through Kentucky universities and other resources; and
(3) The needed state policies and response, including but not limited to recommendations for a strategy to clear and coordinated services and support to persons and families living with Alzheimer's disease and related disorders and ways to address any identified gaps in service.

Section 2. The Kentucky Alzheimer's Disease and Related Disorders Advisory Council and the Office on Alzheimer's Disease and Related Disorders shall submit a report and recommendations for responding to the findings of the examination outlined in Section 1 of this Act to the Kentucky General Assembly, LRC, and the Office of the Governor no later than January 1, 2008.

Calendar

HB 93, 289, 304, 350, 449, 540, HCR 148, HB 65, 86, 156, 259, 310, 341, 391, 35, 126, 239, 260, 401, 410, 443, 523, HCR 79, HB 213, 342, HR 61, HB 61, 76, 191, 274, 275, 322, 334, 348, 426, 465, 469, and **HJR 5** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 231, 278, 367, 152, 196, 234, 293, 386, 400, 418, HJR 118, HR 73, HB 67, 230, 374, 376, 509, 239, HJR 5,** and **HB 362** have been posted for passage in the Regular Orders of the Day for February 23, 2007.

The Committee on Rules reported that the following Bill has been recommitted:

Health and Welfare: **HB 126**

Orders of the Day

HCR 120 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HCR 120** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 22, 2007, roll call on **HCR 120** - Appendix.)

HCR 120 was adopted.

Representative Wayne moved that the vote by which **HCR 120** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 7, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **HB 7**. Agreed.

Representative Webb moved that **HB 7**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 22, 2007, roll call on **HB 7** - Appendix.)

HB 7, by way of Committee Substitute, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 7**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 103 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Keene moved that **HB 103** be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See February 22, 2007, roll call on **HB 103** - Appendix.)

HB 103 was passed and the title agreed to.

Representative Keene moved that the vote by which **HB 103** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 115 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved that **HB 115** be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See February 22, 2007, roll call on **HB 115** - Appendix.)

HB 115 was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 115** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 123, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of Floor Amendment No. 1 to **HB 123**. Agreed.

Representative Pullin moved that **HB 123**, as amended, be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See February 22, 2007, roll call on **HB 123** - Appendix.)

HB 123, as amended, was passed and the title agreed to.

Representative Pullin moved that the vote by which **HB 123**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 285, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of Floor Amendment No. 1 to **HB 285**. Agreed.

Representative Rasche moved that **HB 285**, as amended, be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See February 22, 2007, roll call on **HB 285** - Appendix.)

HB 285, as amended, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 285**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 262, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved the adoption of the Committee Substitute to **HB 262**. Agreed.

Representative C. Belcher moved that **HB 262**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See February 22, 2007, roll call on **HB 262** - Appendix.)

HB 262, by way of Committee Substitute, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 262**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 282, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 282**. Agreed.

Representative Damron moved that **HB 282**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See February 22, 2007, roll call on **HB 282** - Appendix.)

HB 282, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 282**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 430 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Combs moved that **HB 430** be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See February 22, 2007, roll call on **HB 430** - Appendix.)

HB 430 was passed and the title agreed to.

Representative Combs moved that the vote by which **HB 430** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 319 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Firkins moved that **HB 319** be passed.

On the roll call the vote was: **Yeas 98, Nays 1.** (See February 22, 2007, roll call on **HB 319** - Appendix.)

HB 319 was passed and the title agreed to.

Representative Firkins moved that the vote by which **HB 319** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 108, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute to **HB 108**. Agreed.

Representative Hoffman moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 108**. Agreed.

Representative Hoffman moved that **HB 108**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See February 22, 2007, roll call on **HB 108** - Appendix.)

HB 108, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 108**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 127 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HCR 127** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 22, 2007, roll call on **HCR 127** - Appendix.)

HCR 127 was adopted.

Representative McKee moved that the vote by which **HCR 127** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 240, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of the Committee Substitute to **HB 240**. Agreed.

Representative Denham moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 240**. Agreed.

Representative Denham moved that **HB 240**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 86, Nays 9**. (See February 22, 2007, roll call on **HB 240** - Appendix.)

HB 240, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 240**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 225 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tilley moved that **HB 225** be passed.

On the roll call the vote was: **Yeas 98, Nays 1.** (See February 22, 2007, roll call on **HB 225** - Appendix.)

HB 225 was passed and the title agreed to.

Representative Tilley moved that the vote by which **HB 225** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 130 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 130** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 22, 2007, roll call on **HB 130** - Appendix.)

HB 130 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 130** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 390 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Greer moved that **HB 390** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 22, 2007, roll call on **HB 390** - Appendix.)

HB 390 was passed and the title agreed to.

Representative Greer moved that the vote by which **HB 390** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 46 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HCR 46** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 22, 2007, roll call on **HCR 46** - Appendix.)

HCR 46 was adopted.

Representative Yonts moved that the vote by which **HCR 46** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 345, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Watkins moved the adoption of the Committee Substitute to **HB 345**. Agreed.

Representative Watkins moved that **HB 345** by way of Committee Substitute, be passed.

Representative Wuchner moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 345**.

On the roll call to adopt Floor Amendment No. 3 to the Committee Substitute to **HB 345** the vote was: **Yeas 38, Nays 59**. (See February 22, 2007, roll call on **HB 345** - Appendix.)

Floor Amendment No. 3 to the Committee Substitute to **HB 345** was rejected.

Representative Floyd moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 345**.

Representative Wilkey inquired whether Floor Amendment No. 2 is germane.

The Speaker ruled that Floor Amendment No. 2 to the Committee Substitute to **HB 345** is not germane.

Senate Message

Announcing passage of **SB 31, 56, 74, 78, 98, 112, 118, 138,** and **156**. (4:46 p.m.)

Orders of the Day (Continued)

On the roll call on the passage of **HB 345**, by way of Committee Substitute, the vote was: **Yeas 59, Nays 39**. (See February 22, 2007, roll call on **HB 345** - Appendix.)

HB 345, by way of Committee Substitute, was passed and the title agreed to.

Representative Watkins moved that the vote by which **HB 345**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 186 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 186** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 22, 2007, roll call on **HB 186** - Appendix.)

HB 186 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 186** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 312, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkman moved that **HB 312**, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 22, 2007, roll call on **HB 312** - Appendix.)

HB 312, was passed and the title agreed to.

Representative Brinkman moved that the vote by which **HB 312**, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on the following: **HB 383, HJR 137, 144, HCR 163**. Agreed.

Representative Yonts moved the adoption of the following **HR 45**:

HR 45, A RESOLUTION urging Congress to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).

WHEREAS, the intent of Congress in the enactment of the Government Pension Offset (GPO) and the Windfall

Elimination Provision (WEP) was to protect the Social Security program and eliminate perceived abuses in the payment of dual benefits to certain beneficiaries; and

WHEREAS, the GPO and WEP have resulted in devastating, unintended consequences for hundreds of thousands of teachers and other public employees nationwide; and

WHEREAS, the GPO affects teachers and other public employees in Kentucky and other states who are participants in public retirement systems but who do not participate in the Social Security retirement program; and

WHEREAS, under the GPO, a teacher who receives benefits under the Kentucky Teachers' Retirement System will suffer at least a two-thirds reductions in the Social Security survivor benefits the teacher would otherwise receive from a spouse's private-sector earnings; and

WHEREAS, teachers in fifteen states, including Kentucky, do not participate in the Social Security program; and

WHEREAS, the WEP reduces the Social Security benefits of a teacher or other public employee who has participated and received earnings sufficient to qualify for Social Security retirement benefits as well as the benefits procured under the Kentucky Teachers' Retirement System or other public retirement system; and

WHEREAS, the GPO and WEP unfairly target public employees, especially our highly valued teachers who sacrifice lucrative earnings in the private sector to educate our children; and

WHEREAS, Kentucky has a significant teacher shortage and loses more than 2000 teachers annually to retirement and must actively recruit new teachers to meet growing enrollment demands; and

WHEREAS, a federal proposal to repeal both the GPO and WEP, the Social Security Fairness Act of 2007, has been introduced in the U.S. House of Representatives and the U.S. Senate and clearly indicates an awareness and acknowledgment of the devastating impact of these provisions on teachers and other public employees;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky urges the Congress of the United States to enact the Social Security Fairness Act of 2007 or similar legislation to repeal the GPO and WEP provisions of the Social Security law.

Section 2. The Clerk of the House of Representatives shall transmit copies of this Resolution to the President and Vice President of the United States, to the Speaker of the U.S. House of Representatives, the Majority Floor Leader of the U.S. Senate, and to each Senator and Representative from the Commonwealth of Kentucky in the Congress of the United States.

There being no objection, **HR 45** was adopted.

Representative Webb requested that the Journal reflect that pursuant to Section 57 of the Constitution of Kentucky she did not vote on **HB 312**.

Representative Crenshaw moved the adoption of the following **Legislative Citation No. 47**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Bobby Scroggins, Associate Professor, University of Kentucky Art Department upon the unveiling of his sculpture of Willa Brown, in the Capitol Rotunda at Frankfort, Kentucky, during the Black History Month Celebration. A native Kentuckian and an American aviator whose groundbreaking efforts as a pilot, mechanic, instructor and fighter for equal rights, Willa Brown's efforts are credited with the creation of the Tuskegee Airman and the realization of the integration of the United States military services in 1948. As the artist charged with undertaking the representation of the essence of this remarkable American icon, a native of Glasgow, Kentucky; the first African American woman licensed as a private pilot in the United States; and an instructor to approximately 2,000 students as pilots, many of which went on to become Tuskegee Airmen cadets, this talented sculptor and graduate of the Kansas City Art Institute and Southern Illinois University who has also created numerous other laudable works and provided instruction of great cultural value, is applauded for his own groundbreaking contributions to his field, the Commonwealth, and the greater good. Therefore, the members of this august body are honored to join Representative Reginald K. Meeks, Representative Arnold Simpson, Representative Darryl T. Owens, Representative Jim Glenn, Representative Derrick W. Graham and Representative Jesse Crenshaw in offering the highest praise to Professor Bobby Scroggins on this momentous occasion. Done in Frankfort, Kentucky, this twenty-second day of February, in the year two thousand and seven.

Legislative Citation No. 47 was adopted without objection.

Representative Crenshaw moved that Floor Amendment No. 1 to **HB 348** be withdrawn. Agreed.

Representative Denham moved to suspend the rules to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 165, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ethel Marie Foley.

Motions, Petitions, and Communications (Continued)

Representative Denham moved the adoption of the following **HR 165**:

HR 44, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ethel Marie Foley.

WHEREAS, Ethel Marie Foley was born on September 9, 1914, in May's Lick, Kentucky, the daughter of the late Robert and Leona Turner Boulden; and

WHEREAS, Mrs. Foley graduated from John G. Fee High School as the class valedictorian, demonstrating a commitment to personal improvement and educational attainment that she later encouraged in others; and

WHEREAS, Mrs. Foley taught in the Maysville City School System for 41 years before retiring in 1985, passing on to multiple generations a love of learning and education. Mrs. Foley also served on the Morehead State University Board of Regents for four years; and

WHEREAS, Mrs. Foley was an active community volunteer, serving with the area's Literacy Program and on the Retired Senior Volunteer Program's Board of Directors. Mrs. Foley also served on the Old Church Museum Board, the Maysville-Mason County Bicentennial Commission, and the Old Washington Board; and

WHEREAS, Mrs. Foley was an active member of Haven's Chapel United Methodist Church, and served as vice president of the Maysville District United Methodist Women, helping others to grow in their faith and contribute to their community; and

WHEREAS, Mrs. Foley was, above all, the dedicated wife of Henry Foley for their 50 years of marriage; the proud mother of Grant Foley, a senior chemist with DuPont Chemical Company, and Jim Foley, a Lieutenant Commander in the United States Navy; and the doting grandmother of Lisa Folks, James Grant Foley, Lynn Foley, Leigh Tara Evans, Kyle G. Foley, Jessica Foley, and Jerad Foley; and

WHEREAS, in all her actions and endeavors, Mrs. Foley set a shining example for others to follow, proving to everyone who met her that achievement and distinction know no race or gender; and

WHEREAS, Mrs. Foley departed this life on February 12, 2007, leaving behind two sisters, Gwendolyn French and Alma Smith; and an entire community joins her family and friends in grieving for her loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Ethel Marie Foley and extends its sincere condolences to her family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ethel Marie Foley.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Gwendolyn B. French, 7334 Taylor Mill Road, Maysville, Kentucky 41056.

There being no objection, **HR 165** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 166, by Representatives Jenkins, Wayne, Owens, Weston, Marzian, Sims, Palumbo, Stein, Rader, Westrom Webb, Wuchner, C. Belcher, Pullin, and Combs: A RESOLUTION recognizing March as Sexual Assault Awareness Month and honoring Kentucky's 13 regional rape crisis centers.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Seniors, Military Affairs and Public Safety: **HB 183**

Health and Welfare: **HCR 163**

Transportation: **HB 481, 552**

Report of Committees

The Committee on Economic Development reported **HB 127** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 127, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is created a permanent committee of the Legislative Research Commission to be known as the International Business Relations Committee. The committee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Committee members shall serve terms of two (2) years. Any vacancies that may occur shall be filled by the appointing authority who made the original appointment.

(2) Committee members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. Committee members shall be compensated for attending meetings, as provided in KRS 7.090(3). Any professional, clerical, or other employees required by the committee shall be provided in accordance with KRS 7.090(4) and (5).

(3) The committee shall address all aspects of Kentucky's international business relations, and shall oversee and assist the Cabinet for Economic Development and other appropriate agencies in their efforts to attract foreign businesses to Kentucky, evaluate foreign business activities and investments in the state, and promote Kentucky goods and services in international markets. The committee may establish the time, form, and manner for state agencies to report information to the committee as the committee deems necessary to carry out its purposes.

The Committee on Licensing and Occupations reported **HB 490,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 490, AN ACT relating to the construction industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

As used in this Sections 1 to 7 of this Act:

(1) "Construction" means the process of building, altering, repairing, improving, or demolishing any structures or buildings, or other improvements of any kind to any real property, but does not include the routine maintenance of existing structures, buildings, or real property;

(2) "Contract" means a contract or agreement concerning construction made and entered into by and between a contracting entity and a contractor, a contractor and a subcontractor, or a subcontractor and another subcontractor;

(3) "Contracting entity" means an owner of real property; a trustee, agent, or spouse of an owner of real property; or a public official, public authority, or other public entity authorized to contract under the Kentucky Revised Statutes;

(4) "Contractor" means a person performing construction and having a contract with a contracting entity;

(5) "Owner" means a person who holds an ownership interest in real property;

(6) "Person" means an individual, corporation, estate, trust, partnership, limited liability company, association, joint venture, or any other legal entity;

(7) "Retainage" means money earned by a contractor or subcontractor but withheld to ensure proper performance by the contractor or subcontractor; and

(8) "Subcontractor" means any person performing construction covered by a contract between a contracting entity and a

contractor who does not have a contract with the contracting entity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) All payments on construction contracts entered into after the effective date of Sections 1 to 7 of this Act shall be made pursuant to the terms of the contract and as required in this section and Sections 3 and 4 of this Act.

(2) The following provisions in a contract for construction shall be against the public policy of this Commonwealth and shall be void and unenforceable:

(a) A provision that purports to waive, release, or extinguish the right to resolve disputes through litigation, in court or substantive or procedural rights in connection with such litigation, except that a contract may require binding arbitration as a substitute for litigation or require nonbinding alternative dispute resolution as a prerequisite to litigation;

(b) A provision that purports to waive, release, or extinguish rights provided by KRS Chapter 376; or

(c) A provision that purports to waive, release, or extinguish the right of a contractor or subcontractor to recover costs or damages, or obtain an equitable adjustment, for delays in performing the contract if the delay is caused, in whole or in part, by acts or omissions within the control of the contracting entity or person acting on behalf of the contracting entity.

(3) Paragraph (c) of subsection (2) of this section shall not render null, void, and unenforceable a contract provision that:

(a) Permits a contractor or subcontractor to recover that portion of delay costs caused by acts or omissions of the contracting entity;

(b) Requires notice of any delay by the party responsible for the delay;

(c) Provides for reasonable liquidated damages; or

(d) Provides for arbitration or any other procedure designed to settle contract disputes.

(4) If a provision of a construction contract is found to be null and unenforceable, that provision shall not affect other provisions of the contract that are in compliance with this section and, to this end, the provisions of the contract are severable.

(5) All contracts for construction shall provide that payment of amounts due a contractor from a contracting entity, except retainage, shall be made within thirty (30) days after the contracting entity receives a timely, properly completed, undisputed request for payment.

(6) If the contracting entity fails to pay a contractor within thirty (30) days following receipt of a timely, properly completed, undisputed request for payment, the contracting entity shall pay interest to the contractor beginning on the thirty-first day after receipt of the request for payment, computed at the rate of eighteen percent (18%) per annum on the undisputed amount.

(7) A contractor shall pay its subcontractors any amounts due within fifteen (15) business days of receipt of payment from the contracting entity, including payment of retainage if retainage is released by the contracting entity, if the subcontractor has provided a timely, properly completed, and undisputed request for payment to the contractor.

(8) If a contractor fails to pay a subcontractor within fifteen (15) business days, the contractor shall pay interest to the subcontractor beginning on the sixteenth business day after receipt of payment by the contractor, computed at the rate of eighteen percent (18%) per annum on the disputed amount.

(9) Subsections (7) and (8) of this section shall apply to all payments from subcontractors to their subcontractors.

SECTION 3. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, until fifty percent (50%) of the construction project has been completed, a contracting entity, contractor, or subcontractor may withhold no more than ten percent (10%) retainage from the amount of any undisputed payment due, and retainage held after fifty-one percent (51%) of the construction project has been completed shall not be more than five percent (5%) of the remaining amount due.

(2) Within thirty (30) days after substantial completion of a construction project, the contracting entity, contractor, or subcontractor shall release the retainage less an amount equal to one hundred fifty percent (150%) of the reasonably estimated cost of the balance of any contractor's or subcontractor's contractually obligated, yet uncompleted, work remaining. Within fifteen (15) business days after the retainage has been released by the contracting entity to the contractor, the contractor shall release to the subcontractors their proportionate shares of the retainage. For purposes of this subsection, "substantial completion" shall be deemed to have occurred upon the earlier of:

(a) The date the architect or engineer issued a certificate of substantial completion;

(b) The date an occupancy permit is issued; or

(c) The date the contracting entity begins to use the project, or could have begun to use the project.

(3) If a contracting entity, contractor, or subcontractor fails to pay retainage, if any, pursuant to the terms of a contract or as required in this section, the contracting entity, contractor, or subcontractor shall pay interest to the contractor or subcontractor to whom payment was due, beginning on the first business day after the payment was due, at the rate of

eighteen percent (18%) per annum.

SECTION 4. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

If any undisputed payment is not made within ten (10) business days after the payment date established in a contract, the contractor and any subcontractors, regardless of tier, upon ten (10) additional business days' written notice to the contracting entity and, in the case of a subcontractor, written notice to the contractor, shall, without prejudice to any other available remedy, be entitled to suspend further performance until payment, including applicable interest, is made. The contract time for each contract affected by the suspension shall be extended appropriately and the contract sum for each affected contract shall be increased by the suspending party's reasonable costs of demobilization, delay, and remobilization.

SECTION 5. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

In any action to enforce Sections 1 to 7 of this Act, including arbitration, the court or arbitrator shall award costs and reasonable attorney fees to the prevailing party. Venue of such an action shall be in the Circuit Court of the county where the real property is located, except that the venue for an action relating to a public construction contract shall be in Franklin Circuit Court.

SECTION 6. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 7 of this Act shall be known and may be cited as the Kentucky Fairness in Construction Act.

(2) The rights and duties prescribed by Sections 1 to 7 of this Act shall not be waivable or varied under the terms of a contract. The terms of any contract waiving the rights and duties prescribed by Sections 1 to 7 of this Act shall be unenforceable.

(3) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, after a judgment for the contractor against a contracting entity is entered by a court of competent jurisdiction, a contractor has thirty (30) days to file a lien against the property.

SECTION 7. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 7 of this Act shall apply to public construction and public works projects, and to private construction, excluding residential construction.

(2) Sections 1 to 7 of this Act shall apply to construction contracts entered into after the effective date of Sections 1 to 7 of this Act.

Section 8. KRS 371.160 is amended to read as follows:

(1) If, in any contract in the amount of five hundred thousand dollars ($500,000) or more involving the improvement of real estate, a certain amount or percentage of the contract is held back by the owner, that retained amount shall be deposited in a separate escrow account with a bank or trust company authorized to do business in the Commonwealth of Kentucky.

(2) As of the time of the deposit of the retained funds, they shall become the sole and separate property of the contractor to whom they are owed.

(3) The escrow agent shall promptly invest all escrowed principal in obligations selected by the escrow agent in its discretion.

(4) Upon satisfactory completion of the contract, to be evidenced by a written release by the owner, all funds accumulated in the escrow account, together with any interest thereon, shall be paid immediately to the contractor to whom it is owed.

(5) The escrow agent shall be compensated for its services in an amount agreed to by the owner, contractor, and escrow agent. The compensation shall be a commercially reasonable fee commensurate with fees being charged for handling of escrow accounts of similar size and duration. The compensation shall be paid from the escrow account.

(6) In the event the owner fails or refuses to execute the release provided for in subsection (4) of this section, then the contractor shall have a cause of action against the owner in a court of proper jurisdiction.

[~~(7) This section shall not apply to contracts with the Commonwealth, any county, charter county, urban-county government, or municipality, or any other political subdivision, agency, or instrumentality of the Commonwealth, or school boards.~~]

Section 9. KRS 45A.245 is amended to read as follows:

(1) Any person, firm or corporation, having a lawfully authorized written contract with the Commonwealth at the time of or after June 21, 1974, may bring an action against the Commonwealth on the contract, including but not limited to actions either for breach of contracts or for enforcement of contracts or for both. ***Notwithstanding KRS Chapter 13B,*** any such action shall be brought in the Franklin Circuit Court and shall be tried by the court sitting without a jury. All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the Commonwealth.

(2) If damages awarded on any contract claim under this section exceed the original amount of the contract, such excess shall be limited to an amount which is equal to the amount of the original contract.

The Committee Substitute to **HB 490,** is as follows:

HB 490, AN ACT relating to the construction industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

As used in this Sections 1 to 7 of this Act:

(1) "Construction" means the process of building, altering, repairing, improving, or demolishing any structures or buildings, or other improvements of any kind to any real property, but does not include the routine maintenance of existing structures, buildings, or real property;

(2) "Contract" means a contract or agreement concerning construction made and entered into by and between a contracting entity and a contractor, a contractor and a subcontractor, or a subcontractor and another subcontractor;

(3) "Contracting entity" means an owner of real property; a trustee, agent, or spouse of an owner of real property; or a public official, public authority, or other public entity authorized to contract under the Kentucky Revised Statutes;

(4) "Contractor" means a person performing construction and having a contract with a contracting entity;

(5) "Owner" means a person who holds an ownership interest in real property;

(6) "Person" means an individual, corporation, estate, trust, partnership, limited liability company, association, joint venture, or any other legal entity;

(7) "Retainage" means money earned by a contractor or subcontractor but withheld to ensure proper performance by the contractor or subcontractor and that shall be paid upon completion of contractual obligations; and

(8) "Subcontractor" means any person performing construction covered by a contract between a contracting entity and a contractor who does not have a contract with the contracting entity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) All payments on construction contracts entered into after the effective date of Sections 1 to 7 of this Act shall be made pursuant to the terms of the contract and as required in this section and Sections 3 and 4 of this Act.

(2) The following provisions in a contract for construction shall be against the public policy of this Commonwealth and shall be void and unenforceable:

(a) A provision that purports to waive, release, or extinguish the right to resolve disputes through litigation, in court or substantive or procedural rights in connection with such litigation, except that a contract may require binding arbitration as a substitute for litigation or require nonbinding alternative dispute resolution as a prerequisite to litigation;

(b) A provision that purports to waive, release, or extinguish rights provided by KRS Chapter 376 with the exception of partial waivers of lien rights provided by the contractor or subcontractor for progress payments; or

(c) A provision that purports to waive, release, or extinguish the right of a contractor or subcontractor to recover costs, additional time, or damages, or obtain an equitable adjustment of the contract, for delays that can be shown to affect the critical path of the project if the delay is caused, in whole or in part, by acts or omissions within the control of the contracting entity or person acting on behalf of the contracting entity.

(3) Paragraph (c) of subsection (2) of this section shall not render null, void, and unenforceable a contract provision that:

(a) Permits a contractor or subcontractor to recover that portion of delay costs caused by acts or omissions of the contracting entity;

(b) Requires notice of any delay by the party affected by the delay;

(c) Provides for reasonable liquidated damages; or

(d) Provides for arbitration or any other procedure designed to settle contract disputes.

(4) If a provision of a construction contract is found to be null and unenforceable, that provision shall not affect other provisions of the contract that are in compliance with this section and, to this end, the provisions of the contract are severable.

(5) All contracts for construction shall provide that payment of amounts due a contractor from a contracting entity, except retainage, shall be made within thirty (30) days after the contracting entity receives a timely, properly completed, undisputed request for payment.

(6) If the contracting entity fails to pay a contractor within thirty (30) days following receipt of a timely, properly completed, undisputed request for payment, the contracting entity shall pay interest to the contractor beginning on the thirty-first day after receipt of the request for payment, computed at the rate of twelve percent (12%) per annum on the undisputed amount due.

(7) A contractor shall pay its subcontractors any amounts due within fifteen (15) business days of receipt of payment from the contracting entity, including payment of retainage if retainage is released by the contracting entity, if the subcontractor has provided a timely, properly completed, and undisputed request for payment to the contractor.

(8) If a contractor fails to pay a subcontractor within fifteen (15) business days, the contractor shall pay interest to the subcontractor beginning on the sixteenth business day after receipt of payment by the contractor, computed at the rate of twelve percent (12%) per annum on the disputed amount.

(9) Subsections (7) and (8) of this section shall apply to all payments from subcontractors to their subcontractors.

SECTION 3. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, until fifty percent (50%) of the construction project has been completed, a contracting entity, contractor, or subcontractor may withhold no more than ten percent (10%) retainage from the amount of any undisputed payment due, and retainage held after fifty-one percent (51%) of the construction project has been completed shall not be more than five percent (5%) of the total contract amount.

(2) Within thirty (30) days after substantial completion of a construction project, the contracting entity, contractor, or subcontractor shall release the retainage less an amount equal to one hundred fifty percent (150%) of the reasonably estimated cost of the balance of any contractor's or subcontractor's contractually obligated, yet uncompleted, work remaining. Within fifteen (15) business days after the retainage has been released by the contracting entity to the contractor, the contractor shall release to the subcontractors their proportionate shares of the retainage. For purposes of this subsection, "substantial completion" shall be deemed to have occurred upon the date the certificate of substantial completion is issued;

(3) If a contracting entity, contractor, or subcontractor fails to pay retainage, if any, pursuant to the terms of a contract or as required in this section, the contracting entity, contractor, or subcontractor shall pay interest to the contractor or subcontractor to whom payment was due, beginning on the first business day after the payment was due, at the rate of twelve percent (12%) per annum.

SECTION 4. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

If any undisputed payment is not made by the contracting entity within ten (10) business days after the payment date established in a contract, the contractor and any subcontractors, regardless of tier, upon ten (10) additional business days' written notice to the contracting entity and, in the case of a subcontractor, written notice to the contractor, shall, without prejudice to any other available remedy, be entitled to suspend further performance until payment, including applicable interest, is made. The contract time for each contract affected by the suspension shall be extended appropriately and the contract sum for each affected contract shall be increased by the suspending party's reasonable costs of demobilization, delay, and remobilization.

SECTION 5. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

In any action to enforce Sections 1 to 7 of this Act, including arbitration, the court or arbitrator shall award costs and reasonable attorney fees to the prevailing party. For public construction contracts, recovery of attorney fees under this section shall be limited to the public contract rate for attorney's fees. Venue of such an action shall be within the Commonwealth of Kentucky.

SECTION 6. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 7 of this Act shall be known and may be cited as the Kentucky Fairness in Construction Act.

(2) The rights and duties prescribed by Sections 1 to 7 of this Act shall not be waivable or varied under the terms of a contract. The terms of any contract waiving the rights and duties prescribed by Sections 1 to 7 of this Act shall be unenforceable.

(3) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, after a judgment for the contractor against a contracting entity is entered by a court of competent jurisdiction, a contractor has thirty (30) days to file a lien against the property.

SECTION 7. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 7 of this Act shall apply to public construction and public works projects, and to private construction, excluding residential construction.

(2) Sections 1 to 7 of this Act shall apply to construction contracts entered into after the effective date of Sections 1 to 7 of this Act.

(3) Sections 1 to 7 of this Act shall not apply to contracts entered into by a borrower of funds that are provided, insured, or guaranteed by the United States Department of Agriculture's Rural Utilities Service, or financed under a lien accommodation by the Rural Utilities Service.

Section 8. KRS 371.160 is amended to read as follows:

(1) If, in any contract in the amount of five hundred thousand dollars ($500,000) or more involving the improvement of real estate, a certain amount or percentage of the contract is held back by the owner, that retained amount shall be deposited in a separate escrow account with a bank or trust company authorized to do business in the Commonwealth of Kentucky.

(2) As of the time of the deposit of the retained funds, they shall become the sole and separate property of the contractor to whom they are owed.

(3) The escrow agent shall promptly invest all escrowed principal in obligations selected by the escrow agent in its discretion.

(4) Upon satisfactory completion of the contract, to be evidenced by a written release by the owner, all funds accumulated in the escrow account, together with any interest thereon, shall be paid immediately to the contractor to whom it is owed.

(5) The escrow agent shall be compensated for its services in an amount agreed to by the owner, contractor, and escrow agent. The compensation shall be a commercially reasonable fee commensurate with fees being charged for handling of escrow accounts of similar size and duration. The compensation shall be paid from the escrow account.

(6) In the event the owner fails or refuses to execute the release provided for in subsection (4) of this section, then the contractor shall have a cause of action against the owner in a court of proper jurisdiction.

~~[(7) This section shall not apply to contracts with the Commonwealth, any county, charter county, urban-county government, or municipality, or any other political subdivision, agency, or instrumentality of the Commonwealth, or school boards.]~~

Section 9. KRS 45A.245 is amended to read as follows:

(1) Any person, firm or corporation, having a lawfully authorized written contract with the Commonwealth at the time of or after June 21, 1974, may bring an action against the Commonwealth on the contract, including but not limited to actions either for breach of contracts or for enforcement of contracts or for both. ***Notwithstanding KRS Chapter 13B,*** any such action shall be brought in the Franklin Circuit Court and shall be tried by the court sitting without a jury. All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the Commonwealth.

(2) If damages awarded on any contract claim under this section exceed the original amount of the contract, such excess shall be limited to an amount which is equal to the amount of the original contract.

Representative Draud moved that **HB 96** and **97** be withdrawn. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 391**, by Representative Floyd:

HB 391, On page 1, line 13, after "***park,***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 1, line 22, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 2, line 1, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 2, line 4, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 2, line 9, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 2, line 11, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 2, line 19, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 1, line 24, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 3, line 1, after "***of***", by deleting "***wine and malt***" and inserting "***alcoholic***" in lieu thereof;

On page 3, line 2, after "***A***", by deleting "***wine and malt beverage***";

On page 3, line 6, by deleting "***Wine and malt***" and inserting "***Alcoholic***" in lieu thereof; and

On page 6, line 13, after "***includes***" by inserting "***distilled spirits,***"; and

On page 6, line 13, after "***wine***" by inserting "***,***".

Floor Amendment No. 1 to **HB 443**, by Representative Wilkey:

HB 443, On page 2, after line 24, by adding:

"***(8) For purposes of this section, "financial institution" has the same meaning as provided in KRS 205.772.***".

Floor Amendment No. 4 to the Committee Substitute to **HB 1**, by Representative Wilkey:

HB 1, On page 50, after line 17, insert the following:

"Section 37. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 7. Northern Kentucky University, at pages 1235 to 1237, is amended to read as follows:

7. NORTHERN KENTUCKY UNIVERSITY

001.Construct New Student Union			
Agency Bonds	-0-	17,360,000	-0-
002. Acquire New Residence Hall			
Restricted Funds	-0-	10,000,000	-0-

003.	Construct Alumni Welcome Center			
	Other Funds	-0-	7,800,000	-0-
004.	Relocate Master Plan Infrastructure			
	Restricted Funds	-0-	6,130,000	-0-
005.	Acquire Land/Campus Master Plan			
	Restricted Funds	-0-	6,000,000	-0-
006.	Construct Track and Field Stadium			
	Other Funds	-0-	5,500,000	-0-
007.	Construct Soccer Stadium			
	Restricted Funds	-0-	5,500,000	-0-
008.	Major Item of Equipment Pool			
	Restricted Funds	-0-	5,410,000	-0-
009.	Construct Central Plaza Phase II			
	Restricted Funds	-0-	4,900,000	-0-
010.	Replace Power Distribution Infrastructure			
	Restricted Funds	-0-	4,800,000	-0-
011.	Repair Structural Floor Heaving/E&G Buildings			
	Restricted Funds	-0-	4,000,000	-0-
012.	Enhance Instructional Information Technology			
	Restricted Funds	-0-	3,800,000	-0-
013.	E&G Minor Projects Pool			
	Restricted Funds	-0-	3,200,000	-0-
014.	Enhance Information Technology Infrastructure			
	Restricted Funds	-0-	2,900,000	-0-
015.	Housing/Minor Projects Pool			
	Restricted Funds	-0-	2,200,000	-0-
016.	Replace Administrative Application System Phase II			
	Restricted Funds	-0-	2,000,000	-0-
017.	Construct Intramural Fields			
	Restricted Funds	-0-	1,900,000	-0-
018.	Replace E&G Fire Alarm Systems			
	Restricted Funds	-0-	1,400,000	-0-
019.	Relocate Early Childcare Center			
	Restricted Funds	-0-	1,000,000	-0-
020.	Replace Elevators Landrum Hall/Lucas Administrative Center			
	Restricted Funds	-0-	990,000	-0-
021.	Replace Air Handlers			
	Restricted Funds	-0-	980,000	-0-
022.	Restore Albright Health Center Roof			
	Restricted Funds	-0-	680,000	-0-
023.	Replace Business, Education, and Psychology Center Roof			
	Restricted Funds	-0-	680,000	-0-
024.	Enhance Softball Field			
	Restricted Funds	-0-	600,000	-0-
025.	Renovate University Center			
	Restricted Funds	-0-	600,000	-0-
026.	Kenton County - Lease			
027.	Guaranteed Energy Savings Performance Contracts			

028.	Construct Center for Informatics			
	Bond Funds	-0-	35,500,000	-0-
029.	Construct Parking Garage #3			
	Agency Bonds	-0-	15,400,000	-0-
030.	*Construct Student Housing*			
	Agency Bonds	*-0-*	*23,000,000*	*-0-*
031.	*Expand Norse Commons*			
	Agency Bonds	*-0-*	*1,400,000*	*-0-*";

Renumber subsequent sections accordingly;

On page 53, after line 3, insert the following:

" *267.*	*Install HVAC - Keeneland Hall*			
	Agency Bonds	*-0-*	*7,013,000*	*-0-*";

On page 57, after line 5, insert the following:

" *045.*	*Construct HSC Parking Structure II*			
	Agency Bonds	*-0-*	*26,113,000*	*-0-*"; and

On page 57, after line 7, insert the following:

" *047.*	*Renovate Medical/Dental Research Building, Phase IV*			
	Agency Bonds	*-0-*	*19,800,000*	*-0-*".

Floor Amendment No. 1 to the Committee Substitute to **HB 287**, by Representative Riner:

HB 287, On page 6, delete lines 1 to 3 in their entirety and insert in lieu thereof:

"*(2) Sections 1 to 9 of this Act shall not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.*"; and

On page 6, delete lines 4 to 18 in their entirety.

Floor Amendment No. 1 to **HB 374**, by Representative Wilkey:

HB 374, On page 1, line 1 by inserting the following:

"Section 1. KRS 387.580 is amended to read as follows:

(1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial disability or disability, the jury shall:

(a) Inquire into the nature and extent of the general intellectual functioning of the respondent;

(b) Inquire into the respondent's capacity to make informed decisions concerning his personal affairs and financial resources;

(c) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his financial resources; and

(d) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his personal affairs.

(2) If the respondent is found not to be disabled or partially disabled, the petition shall be dismissed.

(3) If the respondent is found to be disabled or partially disabled, the court shall, at the same hearing, without a jury, determine:

(a) The type of guardian or conservator to be appointed;

(b) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;

(c) *Whether the respondent retains the right to vote;*

(d) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled;

(e)[~~(d)~~]The individual or entity to be appointed by the court as limited guardian, guardian, limited conservator, or conservator;

(f)[~~(e)~~] The individual or entity, if any, to be appointed as standby guardian or conservator; and

(g)[~~(f)~~] The duration of the term of guardianship or conservatorship."; and

Renumber the subsequent section accordingly; and

On page 2, line 22, after the word "***record***" by inserting "***as established in subsection (3)(c) of Section 1 of this Act.***" and by deleting all of lines 23 and 24 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 124**, by Representative Wilkey:

HB 124, On page 4, line 5 by deleting "***and***"; and

On page 4, line 7, after "***consumers***" by inserting "***; and***

(e) Does not hold cigarettes, other tobacco products, or snuff in inventory longer than thirty (30) days from the date the product was received from the manufacturer"; and

On page 9, line 9, after the "(3)" by inserting the following:

"***Any cigarettes, other tobacco products, or snuff held by a master tobacco product distributor in inventory longer than thirty (30) days shall be subject to a penalty in the amount of the tax that would have otherwise been collected from the wholesaler pursuant to KRS 138.140. The penalty shall be paid to the Commonwealth.***

(4)"; and

On page 9, line 15 before the "(4)" by inserting "***(5)***" and by bracketing and striking "(4)"; and

On page 9, line 21, before the "(5)", by inserting "***(6)***" and by bracketing and striking "(5)".

Floor Amendment No. 1 to the Committee Substitute to **HB 449**, by Representative Denham:

HB 449, On page 1, line 1, insert the following:

"SECTION 1. A NEW SECTION OF KRS 363.520 to 363.850 IS CREATED TO READ AS FOLLOWS:

The Commissioner may promulgate administrative regulations relating to servicing or inspecting instruments and devices used to measure internal moisture or density levels in unprocessed bulk tobacco as described in Section 2 of this Act.";

Renumber subsequent section accordingly.

Floor Amendment No. 1 to **HB 245**, by Representative Riggs:

HB 245, On page 1, line 1, through page 5, line 7, delete Sections 1 through 4 in their entirety and insert the following in lieu thereof:

"Section 1. KRS 359.200 is amended to read as follows:

As used in KRS 359.210 to 359.250, unless the context clearly requires otherwise:

(1) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a "self-service" basis.

(2) "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility ***or self-contained storage unit***.

(3) "Leased space" means the individual storage space at ***a***[~~the~~] self-service ***storage*** facility ***or in a self-contained storage unit*** which is rented to an occupant pursuant to a rental agreement.

(4) "Occupant" means a person, a sublessee, successor, or assign, entitled to the use of a leased space at a self-service storage facility ***or in a self-contained storage unit*** under a rental agreement.

(5) "Operator" means the owner, operator, lessor, or sublessor of a self-service storage facility ***or a self-contained storage unit***, ***or*** an agent or any other person authorized to manage the facility ***or storage unit***, but does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

(6) "Personal property" means movable property ***located within leased space at a self-service storage facility or in a self-contained storage unit***[~~, not affixed to land~~] and includes[~~,~~] but is not limited to[~~,~~] goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.

(7) "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.

(8) "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

(9) "Self-contained storage unit" means any unit including but not limited to a trailer, box, or other shipping container, which is leased by an occupant primarily for use as a storage space, whether the unit is located at a self-service storage facility or at another location designated by the occupant.

Section 2. KRS 359.210 is amended to read as follows:

(1) An operator shall not knowingly permit a leased space at a self-service storage facility ***or in a self-contained storage unit*** to be used for residential purposes.

(2) An occupant shall not use a leased space ***at a self-service storage facility or in a self-contained storage unit*** for residential purposes.

Section 3. KRS 359.220 is amended to read as follows:

(1) The operator of a self-service storage facility ***or self-contained storage unit*** shall have a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in its sale, as provided in KRS 359.200 to 359.250.

(2) The rental agreement shall contain a statement, in bold type, advising the occupant:

(a) Of the existence of the lien; and

(b) That property stored in the leased space may be sold to satisfy the lien if the occupant is in default.

Section 4. KRS 359.230 is amended to read as follows:

(1) (a) If the occupant is in default for a period of more than forty-five (45) days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale, for cash.

(b) Proceeds shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (5) of this section.

(2) Before conducting a sale under subsection (1), the operator shall:

(a) Notify the occupant of the default by regular mail at the occupant's last known address;

(b) Send a second notice of default by certified mail to the occupant at the occupant's last known address which includes:

1. A statement that the contents of the occupant's leased space are subject to the operator's lien;

2. A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date those additional charges shall become due;

3. A demand for payment of the charges due within a specified time, not less than fourteen (14) days after the date of the notice;

4. A statement that unless the claim is paid within the time stated, the contents of the occupant's ***leased*** space shall be sold at a specified time and place; and

5. The name, street address, and telephone number of the operator, or his ***or her*** designated agent, whom the occupant may contact to respond to the notice; and

(c) At least three (3) days before the sale, advertise the time, place, and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held.

(3) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(4) The sale under this section shall be held at the self-service storage facility ***or the location of the self-contained storage unit*** where the personal property is stored.

(5) If a sale is held under this section, the operator shall:

(a) Satisfy the lien from the proceeds of the sale;

(b) Hold the balance, if any, for delivery to any other recorded lienholders who present claims within sixty (60) days. Notwithstanding Article 9 of KRS Chapter 355, claims shall be satisfied on a first come first served basis; and

(c) Deliver, upon expiration of sixty (60) days, the balance of any remaining proceeds to the occupant.

(6) A purchaser in good faith of any personal property sold under KRS 359.200 to 359.250 takes the property free and clear of any rights of:

(a) Persons against whom the lien was valid; and

(b) Other lienholders.

(7) If the operator complies with the provisions of KRS 359.200 to 359.250, the operator's liability:

(a) To the occupant shall be limited to the net proceeds received from the sale of the personal property;

(b) To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien; and

(c) To the occupant or valid lienholders shall be relieved upon full distribution of proceeds in accordance with the provisions of KRS 359.200 to 359.250.

(8) If an occupant is in default, the operator may deny the occupant access to the leased space.

(9) (a) Unless otherwise specifically provided, all notices required by KRS 359.200 to 359.250 shall be sent by certified mail.

(b) 1. Notices sent to the operator shall be sent to the *operator's principal office, as listed on the rental agreement*~~[self-service storage facility where the occupant's property is stored]~~.

2. Notices to the occupant shall be sent to the occupant at the occupant's last known address.

(c) Notices shall be deemed delivered when deposited with the United States Postal Service, properly addressed as provided in paragraph (b), with postage paid.

(10) Provided, however, unless the rental agreement specifically provides otherwise and until a lien sale under KRS 359.200 to 359.250, the exclusive care, custody, and control of all personal property stored in the leased~~[self-service storage]~~ space shall remain vested in the occupant.".

Floor Amendment No. 1 to the Committee Substitute to **HB 76**, by Representative Thompson:

HB 76, On page 1, lines 13 and 14, by deleting same and inserting the following in lieu thereof:

"more than one (1) year, or both*, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony*. Any ".

Floor Amendment No. 1 to **HB 321**, by Representative C. Belcher:

HB 321, On page 1, line 3, by deleting everything after the "*(1)*", and

On page 1, line 4 through page 2, line 4, by deleting all text, and

On page 2, line 5, by deleting "*(b)*", and

On page 2, line 7, by deleting "*1.*" and replacing it with "*(a)*", and

On page 2, line 8, by deleting "*2.*" and replacing it with "*(b)*", and

On page 2, line 9, by deleting the word "*and*", and

On page 2, lines 10 through 12 by deleting all language and inserting in lieu thereof the following:

"*(c) Attorneys' fees as provided in this paragraph.*

1. Attorneys' fees incurred for collection efforts prior to litigation as follows:

a. If the amount paid for a certificate of delinquency is between five dollars ($5) and three hundred fifty dollars ($350), actual reasonable fees incurred up to one hundred percent (100%) of the amount of the certificate of delinquency, not to exceed three hundred fifty dollars ($350);

b. If the amount paid for a certificate of delinquency is between three hundred fifty-one dollars ($351) and seven hundred dollars ($700), actual reasonable fees incurred up to eighty percent (80%) of the amount of the certificate of delinquency, not to exceed five hundred sixty dollars ($560); and

c. If the amount paid for a certificate of delinquency is above seven hundred one dollars ($701), actual reasonable fees incurred up to seventy percent (70%) of the amount of the certificate of delinquency, not to exceed seven hundred dollars ($700).

2. If a private purchaser is the owner of more than one (1) certificate of delinquency against the same taxpayer, actual and reasonable pre-litigation attorneys' fees for all certificates of delinquency against the same taxpayer shall not exceed one and one-half times the maximum amount permitted in subparagraph 1. of this paragraph for the largest tax bill owed by the taxpayer.

3. In addition to the pre-litigation attorneys' fees established by subparagraphs 1. and 2. of this paragraph, a private purchaser may collect actual, reasonable attorneys' fees and costs that arise due to the prosecution of collection remedies or the protection of a certificate of delinquency that is involved in litigation; and

(d) Administrative fees incurred for preparing, recording, and releasing an assignment of the certificate of delinquency in the county clerk's office, not to exceed one hundred dollars ($100).", and

On page 2, line 21, by deleting "*(4)*" and replacing it with "*(3)*", and

On page 2, line 15, after "*2008,*", by inserting "*at the address reflected in the records maintained by the property valuation administrator,*"; and

On page 2, after line 24 and before line 25, by inserting the following:

"*(4) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the private purchaser shall send to the taxpayer by first class mail, with proof of mailing, a notice informing the taxpayer that the certificate of delinquency may be enforced as provided in subsection (2) of Section 5 of this Act. The notices shall be*

sent to the address reflected in the records maintained by the property valuation administrator. The notice shall also include the contact information required by subsection (1)(b) of Section 5 of this Act.

(5) Within thirty (30) days but at least fifteen (15) days prior to initiating any of the collection remedies enumerated in subsection (2) of Section 5 of this Act, the private purchaser shall send to the taxpayer by first class mail, with proof of mailing, a notice informing the taxpayer that enforcement actions will be taken. The notices shall be sent to the address reflected in the records maintained by the property valuation administrator. The notice shall also include the contact information required by subsection (1)(b) of Section 5 of this Act.", and

On page 5, line 25, after "***(b)***", by inserting "***1.***"; and

On page 5, line 27, after "shall" by inserting "***release the lien, or***"; and

On page 6, after line 3 but before line 4, by inserting

"***2. If the owner fails to release the lien within thirty (30) days, or surrender the certified copy of the certificate of delinquency to the person making payment within thirty (30) days after payment has been tendered to the owner at the mailing address designated in the notice required by paragraph (b) of subsection (1) of Section 5 of this Act, the owner of the property subject to the certificate of delinquency shall have all of the remedies provided in KRS 382.365 against the owner of the certificate of delinquency.***"; and

On page 6, line 23 after "thereof." by inserting "***The assignment shall be recorded in the same manner as a notice of lis pendens.***"; and

On page 14, line 9, after the word "penalty" and before the comma, by inserting "***and actual costs, including additional attorneys' fees incurred by the county attorney necessary to prosecute any of the collection remedies available in subsections (2) and (3) of Section 5 of this Act***".

Floor Amendment No. 5 to the Committee Substitute to **HB** 1, by Representative Couch:

1, Capital Budget

Part II

On page 115, line 8, delete "***Center***" and insert"***/Detention Center Operations***" and on line 9, delete "***New Facility-Construction***"

On page 115, line 16, delete "***Jail Bond Debt (Principal)***" and insert "***Detention Center Operations***".

Floor Amendment No. 1 to the Committee Substitute to **HB 185**, by Representative Moberly:

HB 185, On page 2, line 9, after "***in***" by deleting "***paragraph (l)***" and inserting "***paragraphs (q) through (r)***";

On page 2, line 11, after "***(a)***" by deleting "***Two (2) members***" and inserting "***One (1) member***" in lieu thereof;

On page 2, line 12, after "***Education***" by deleting "***, one (1) of whom***" and inserting "***who***" in lieu thereof;

On page 2, lines 19 and 20, after "***the***" by deleting "***Department of Innovation and Commercialization for a Knowledge Based Economy***" and inserting "***Department of Commercialization and Innovation for a Knowledge Based Economy***";

On page 2, lines 22 and 23, after "***(g)***" by deleting "***The commissioner or designee of the Department for Medicaid Services;***

(h)";

On page 2, line 24, by deleting "***(i)***" and inserting "***(h)***" in lieu thereof;

On page 2, line 25, by deleting "***(j)***" and inserting "***(i)***" in lieu thereof;

On page 2, line 27, by deleting "***(k)***" and inserting "***(j)***" in lieu thereof;

On page 3, line 4, by deleting "***(l)***" and inserting "***(k)***" in lieu thereof;

On page 3, line 4, after "***director***" by deleting "***or designee***";

On page 3, line 6, by deleting "***(m)***" and inserting "***(l)***" in lieu thereof;

On page 3, line 6, after "***president***" by deleting "***or designee***";

On page 3, line 7, by deleting "***(n)***" and inserting "***(m)***" in lieu thereof;

On page 3, line 8, by deleting "***(o)***" and inserting "***(n)***" in lieu thereof;

On page 3, by deleting all text on lines 10 through 13 and inserting the following in lieu thereof:

"***(o) Four (4) members representing private sector hospitals that treat the greatest number of coardiology patients as measured by the number of MDC 5 discharges and as reported by COMPdata or its successor;***

(p) One (1) at-large member appointed by the Governor;";

On page 3, line 14, by deleting "*(r)*" and inserting "*(q)*" in lieu thereof;

On page 3, line 16, by deleting "*(s)*" and inserting "*(r)*" in lieu thereof;

On page 3, line 18, after "*paragraphs*" by deleting "*(a) to (i)*" and inserting "*(b) to (i), (k) and (l)*" in lieu thereof;

On page 3, line 19, after "*shall*" by deleting "*be permanent members of the board*" and inserting "*not be subject to term limits*";

On page 3, line 21, after "*paragraphs*" by deleting "*(j) and (k)*" and inserting "*(i) and (j)*" in lieu thereof;

On page 3, line 25, after "*paragraphs*" by deleting "*(l) to (p)*" and inserting "*(m) to (o)*" in lieu thereof;

On page 4, line 6, after "*relating*" by inserting "*to*";

On page 4, line 13, after "*relating*" by inserting "*to*";

On page 4, line 16, between lines 16 and 17, by inserting the following:

"*(7) The KCDI board shall be attached to the Cabinet for Health and Family Services for administrative purposes.*";

On page 4, line 24, after "*institutions*" by inserting "*, the resources of community-based physicians,* ";

On page 5, line 8, after "*institutions*" by inserting "*, the resources of community-based physicians,* ";

On page 5, line 26, after "*prior to*" by inserting "*initial*";

On page 5, line 27, after "*updates*" by deleting "*at*";

On page 6, line 1, by deleting "*least every six (6) months*" and inserting "*annually*" in lieu thereof;

On page 6, between lines 2 and 3, by inserting the following:

(3) The board may create a public or nonprofit corporation to facilitate public-private collaboration in development and implementation of the KCDI:

- *(a) A public or nonprofit organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the KCDI Board;*
- *(b) Funds appropriated to a public or nonprofit corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated; and*
- *(c) A public or nonprofit corporation created under this subsection shall:*
  - *1. Follow standard accounting practices;*
  - *2. Conduct an annual financial audit by an independent auditor;*
  - *3. Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the KCDI Board no later than sixty (60) days after the end of a quarter; and*
  - *4. Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare by September 30 following the end of each state fiscal year. The annual report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.*"; and

On page 6, line 16, after "*Act.*" by inserting the following:

"*(5) The Cabinet for Health and Family Services may expend available funds on the KCDI.*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representative Rasche

HB 7, Representative Tilley

HB 51, Representative Santoro

HB 75, Representative Nesler

HB 103, Representative Tilley

HB 109, Representatives Montell and Bratcher

HB 137, Representative Thompson

HB 138, Representative Osborne

HB 156, Representative Nesler

HB 175, Representative Thompson

HB 203, Representative Comer

HB 219, Representative Thompson

HB 222, Representative Bell

HB 224, Representative Nesler

HB 225, Representatives Nelson, McKee, and Moore

HB 262, Representative Keene

HB 278, Representatives Firkins, Glenn, Stewart, Nelson, Vincent, Hoffman, Nesler, Weston, Moore, and Stein

HB 290, Representative Greer

HB 295, Representatives Marzian, Wayne, Henderson, Tilley, L. Belcher, Greer, Weston, and Yonts

HB 305, Representative Thompson

HB 306, Representatives Tilley, Miller, Thompson, Glenn, Sims, Henderson, Cherry, Burch, Hoffman, Butler, Watkins, and Wilkey

HB 318, Representative Richards

HB 332, Representative Thompson

HB 335, Representative Osborne

HB 337, Representative Owens

HB 339, Representative Osborne

HB 415, Representative Comer

HB 430, Representative Hoffman

HB 431, Representative Palumbo

HB 437, Representative Thompson

HB 438, Representative Greer

HB 442, Representative Napier

HB 460, Representative Floyd

HB 462, Representative Richards

HB 466, Representative Nesler

HB 467, Representatives Pasley, Harmon, Bell, Adams, Adkins, Santoro, Rader, Greer, Crenshaw, Riner, and Floyd

HB 468, Representative DeCesare

HB 480, Representatives Thompson and Floyd

HB 504, Representative Nesler

HCR 18, Representative Meeks

HCR 46, Representative Gray

HCR 120, Representative Moore

Announcements

Committee on Economic Development, upon recess, rear of Chamber

Committee on Licensing and Occupation, upon recess, Speaker Pro Tem Office

Committee on Appropriations and Revenue, upon adjournment, Room 154

Adjournment

Representative Adkins moved to adjourn until the hour of 9:00 a.m. on Friday, February 23, 2007.

The motion that the House adjourn until 9:00 a.m., Friday, February 23, 2007, was adopted by voice vote.

FRIDAY, FEBRUARY 23, 2007

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Terry Cooper, Ninevah Christian Church, Lawrenceburg, Kentucky, guest of Representative Dedman.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representatives Hall, Higdon, and Webb.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 22, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Westrom moved that she be recorded as voting "Yea" on **HB 319**. Agreed.

Representative Sims moved that she be recorded as voting "Yea" on **HB 7** and **HCR 120**. Agreed.

Representative Sims moved that her vote be changed from "Yea" to "Nay" on **HB 240**. Agreed.

Representative Stacy moved that he be recorded as voting "Yea" on **HB 312**. Agreed.

Representative Gray moved that he be recorded as voting "Yea" on **HCR 46**. Agreed.

Representative Meeks moved that his vote be changed from "Nay" to "Yea" on **HB 225**. Agreed.

Representative Dossett moved that he be recorded as voting "Yea" on **HB 240**. Agreed.

Representative Moore moved that he be recorded as voting "Yea" on **HB 305**. Agreed.

Representative Moore moved that he be recorded as voting "Yea" on **SJR 16**. Agreed.

Introduction of Bills and Resolutions

HR 167, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Captain Barth H. Pemberton.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 82**

Economic Development: **SB 78**

Health and Welfare: **SB 23**

Judiciary: **SJR 48**

Licensing and Occupations: **SB 134**

Local Government: **SB 74**

State Government: **SB 56**

House Floor: **HR 166**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 276,** with Committee Substitute attached thereto, **HB 354,** with Committee Substitute and Committee Amendments attached thereto, **HB 462, HB 500,** and **HB 536** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 276, AN ACT relating to income taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of the Department of Revenue;

(2) "Department" means the Department of Revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, *2006*~~[2004]~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) "Modified gross income" means the greater of:

  (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:

    1. Include interest income derived from obligations of sister states and political subdivisions thereof; and

    2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

  (b) Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

  (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

  (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

  (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

  (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

  (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

  (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

  (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

  (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

  (i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars ($41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner; and

(t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before

December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and

(n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and

(g) Any deduction prohibited by KRS 141.205;

(14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;

(c) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(d) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:
  1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
  2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
  3. A foreign limited liability company as defined in KRS 275.015(6);
  4. A limited liability company as defined in KRS 275.015(8);
  5. A professional limited liability company as defined in KRS 275.015(18);
  6. A foreign limited partnership as defined in KRS 362.2-102(9);
  7. A limited partnership as defined in KRS 362.2-102(14);
  8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or(8);
  9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
  10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;
  11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
  12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
  13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

(25) "Doing business in this state" includes but is not limited to:
  (a) Being organized under the laws of this state;
  (b) Having a commercial domicile in this state;
  (c) Owning or leasing property in this state;
  (d) Having one (1) or more individuals performing services in this state;
  (e) Maintaining an interest in a pass-through entity doing business in this state;
  (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or
  (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

(26) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;

(27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code; and

(28) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity.

Section 2. The provisions of this Act shall apply to tax years beginning on or after January 1, 2007.

The Committee Substitute to **HB 276** is as follows:

HB 276, AN ACT relating to income taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of the Department of Revenue;

(2) "Department" means the Department of Revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, *2006*[~~2004~~], exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, *2006*[~~2004~~], that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) "Modified gross income" means the greater of:

(a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:

1. Include interest income derived from obligations of sister states and political subdivisions thereof; and

2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

(b) Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten

dollars ($41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

3. As used in this paragraph:

   a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

   b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

   c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

   b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner; and

(t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of

Section 164(b)(5) of the Internal Revenue Code;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and

(n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;[~~and~~]

(g) Any deduction prohibited by KRS 141.205; ***and***

(h) Any dividends-paid deduction of any captive real estate investment trust;

(14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;

(c) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(d) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code***, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid***;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:

1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
3. A foreign limited liability company as defined in KRS 275.015(6);
4. A limited liability company as defined in KRS 275.015(8);
5. A professional limited liability company as defined in KRS 275.015(18);
6. A foreign limited partnership as defined in KRS 362.2-102(9);
7. A limited partnership as defined in KRS 362.2-102(14);

8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or(8);

9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;

10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;

11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;

12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and

13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

(25) "Doing business in this state" includes but is not limited to:

(a) Being organized under the laws of this state;

(b) Having a commercial domicile in this state;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services in this state;

(e) Maintaining an interest in a pass-through entity doing business in this state;

(f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or

(g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

(26) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;

(27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code;~~[and]~~

(28) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity***; and***

(29) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code where:

(a) In the case of a corporation, ten percent (10%) or more in value of the stock of the real estate investment trust is owned by the corporation or its affiliates; or

(b) In the case of a partnership, ten percent (10%) or more in value of the stock of the real estate investment trust is owned by partners who own, directly or indirectly, twenty-five percent (25%) or more of the capital interest or profits interest of the partnership.

Section 2. KRS 67.750 is amended to read as follows:

As used in KRS 67.750 to 67.790, unless the context requires otherwise:

(1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

(3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;

(4) "Employee" means any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee;

(5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;

(6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following:

(a) Sales and excise taxes paid; and

(b) Returns and allowances;

(7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, *2006*[~~2004~~], exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, *2006*[~~2005~~], that would otherwise terminate;

(8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;

(9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;

(10) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes;

(11) "Taxable gross receipts" in case of a business entity having payroll or sales revenues both within and without a tax district means gross receipts as defined in subsection (6) of this section, as apportioned under KRS 67.753;

(12) "Taxable gross receipts" in case of a business entity having payroll or sales revenue only in one (1) tax district means gross receipts as defined in subsection (6) of this section;

(13) "Taxable net profit" in case of a business entity having payroll or sales revenue only in one (1) tax district means net profit as defined in subsection (8) of this section;

(14) "Taxable net profit" in case of a business entity having payroll or sales revenue both within and without a tax district means net profit as defined in subsection (8) of this section, as apportioned under KRS 67.753; and

(15) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.

Section 3. The provisions of this Act shall apply to tax years beginning on or after January 1, 2007.

HB 354, AN ACT relating to tax credits for conservation easements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "wildlife-associated public access" means access for public hunting, fishing, trapping, and other wildlife-related recreational uses that contribute to the management of natural habitat for fish, wildlife, plants, or ecosystems.

(2) There shall be allowed as a nonrefundable credit against both the taxes imposed by KRS 141.020 or 141.040, and the tax imposed by KRS 141.0401, with the ordering of credits as provided in Section 2 of this Act, an amount equal to:

(a) Twenty-five percent (25%) of the fair market value of a donated easement for conservation purposes, as defined in Section 170(h) of the Internal Revenue Code;

(b) Forty percent (40%) of the fair market value of a donated easement for conservation purposes, as defined in Section 170(h) of the Internal Revenue Code, that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access for fifteen (15) years;

(c) Fifty-five percent (55%) of the fair market value of a donated easement for conservation purposes, as defined in Section 170(h) of the Internal Revenue Code, that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access for thirty (30) years; or

(d) One hundred percent (100%) of the fair market value of a donated easement for conservation purposes, as defined in Section 170(h) of the Internal Revenue Code, that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access for an unlimited duration.

(3) (a) A taxpayer shall submit an application for the tax credit provided under this section to the Department of Fish and Wildlife Resources by no later than December 31 of each year and shall identify the fair market value of the donated conservation easement.

(b) An appraisal completed at the donor's expense and signed by a real estate appraiser certified under KRS Chapter 324A shall determine the fair market value.

(c) If any appraiser falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed, the Department of Fish and Wildlife Resources may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraisers Board for appropriate disciplinary action pursuant to KRS Chapter 324A.

(4) The Department of Fish and Wildlife Resources shall determine whether the donation easement meets the definition of a qualified conservation contribution under the provisions of Section 170(h) of the Internal Revenue Code, and any administrative regulations promulgated by the Department of Fish and Wildlife Resources.

(5) The Department of Fish and Wildlife Resources shall promulgate an administrative regulation establishing the parameters and criteria for conservation easements which shall include, at a minimum, the following:

(a) The required acreage for a donated easement;

(b) The duration of wildlife-associated public access to the donated easement;

(c) The easement's compatibility with hunting, fishing, and other wildlife-related recreation; and

(d) The preservation of unique or species-critical habitats.

(6) Applications that include any of the following shall be considered ineligible for the tax credit provided under this section:

(a) The property donated is both contiguous to a golf course and shares an owner with the golf course;

(b) A request for a conservation easement is part of a local, state, or federal regulatory requirement;

(c) The landowner holds, for less than two (2) years, the property to which the conservation easement would apply; or

(d) The appraisal is based on preferential zoning or future real estate development.

(7) When the Department of Fish and Wildlife Resources determines that an application for credit meets the qualifications under Section 170(h) of the Internal Revenue Code and the criteria set forth in administrative regulation, the Department of Fish and Wildlife Resources shall:

(a) Compute the amount of available tax credit as prescribed in this section, depending on the level of wildlife-associated public access and the fair market value of the donated conservation easement; and

(b) Notify the taxpayer and the Department of Revenue of the approved credit amount by no later than the fifteenth day of March.

(8) The amount of credit provided in accordance with this section shall be limited to a maximum of two hundred fifty thousand dollars ($250,000) per taxpayer per tax year. In the case of spouses filing separate returns or filing separately on a combined return, the credit may either be taken entirely by one (1) spouse, or may be divided equally with the combined credit not exceeding two hundred fifty thousand dollars ($250,000) per tax year. The total credit for each donated easement may not exceed two million five hundred thousand dollars ($2,500,000).

(9) If the credit amount that may be claimed in any tax year exceeds the taxpayer's total tax liabilities under KRS 141.020 or 141.040, and KRS 141.0401, the taxpayer may carry the excess tax credit forward until all tax credit is claimed, provided that any tax credits not used within twenty (20) years of the donation shall be lost.

(10) Credits received under this section may be transferred or assigned, with or without consideration, along with any related benefits, rights, responsibilities, and liabilities, to any person, as defined in KRS 141.010. The provisions of this subsection shall apply to any credits that pass through to a taxpayer's successor or beneficiary. Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Department of Revenue of the following:

(a) The name, address, employer identification number, bank routing number, and transfer number of the party to which the credits are transferred;

(b) The amount of credits transferred; and

(c) Any additional information the Department of Revenue prescribes in an administrative regulation.

(11) The taxes imposed by KRS 141.020 or 141.040 shall apply to any consideration received for the transfer, sale, or assignment of a tax credit approved under this section, but shall not apply to the use of tax credits approved under this section.

(12) A landowner receiving a tax credit that includes wildlife-associated public access for fifteen (15) years or thirty (30) years may extend that tax credit as follows:

(a) A tax credit for fifteen (15) years of wildlife-associated public access may be extended to thirty (30) years of wildlife-associated public access, with the extended tax credit based on fifteen percent (15%) of the original appraisal submitted with the application as provided in subsection (3) of this section.

(b) A tax credit for fifteen (15) years of wildlife-associated public access may be extended to an unlimited duration of wildlife-associated public access, with the extended tax credit based on sixty percent (60%) of the original appraisal submitted with the application as provided in subsection (3) of this section.

(c) A tax credit for thirty (30) years of wildlife-associated public access may be extended to an unlimited duration of wildlife-associated public access, with the extended tax credit based on forty-five percent (45%) of the original appraisal submitted with the application as provided in subsection (3) of this section.

(13) Any landowner receiving a tax credit that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access wishing to terminate the agreement may do so after thirty (30) days' written notice. A landowner terminating the agreement for wildlife-associated public access shall be required to pay to the Department of Revenue the amount of the total tax credit that was received by any person during the agreement. The landowner terminating the agreement for wildlife-associated public access shall also be required to pay a termination penalty of twenty-five percent (25%) of the original value of the access to the Department of Fish and Wildlife Resources, for use in conservation and land acquisition purposes.

(14) Receiving tax credits under this section shall not be deemed as charging for access pursuant to KRS 411.190.

(15) A landowner receiving a tax credit for a donated conservation easement which includes wildlife-associated public access shall have the same liability protections as in KRS 150.645 and 411.190 for landowners who consent to hunting, fishing, trapping, camping, or hiking on premises at no charge.

(16) Upon donation, the landowner shall maintain the conservation easement to comply with requirements for credit conservation purposes, as defined in Section 170(h) of the Internal Revenue Code. The holder of a donated conservation easement shall be responsible for the ongoing compliance monitoring of the easement, and shall submit by January 31 of each year an annual report to the Department of Fish and Wildlife Resources attesting to the easement's continued compliance with Section 170(h) of the Internal Revenue Code. The annual report shall be in a format prescribed by the Department of Fish and Wildlife Resources and promulgated in an administrative regulation. If the Department of Fish and Wildlife Resources is informed of any violation of the agreement for wildlife-associated public access or the requirements for credit conservation purposes, as defined in Section 170(h) of the Internal Revenue Code, the department shall investigate, and if the landowner is found to be in violation of the agreement, the department shall issue a notice of noncompliance to the landowner or easement holder, respectively, and shall notify the Department of Revenue that the conservation tax credit is no longer valid.

(17) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount of approved credit shall be distributed to each partner, owner, or shareholder based on the partner's, owner's, or shareholder's distributive share of the income of the pass-through entity. Each pass-through entity shall notify the Department of Revenue electronically of all partners, owners, or shareholders who may claim any amount of the approved credit. Failure to provide information to the Department of Revenue in a manner prescribed by administrative regulation may constitute the forfeiture of available credits to all partners, owners, or shareholders associated with the pass-through entity.

(18) An action affecting a conservation easement shall be brought in Franklin Circuit Court and may be brought by:

(a) An owner of an interest in the real property burdened by the easement;

(b) A holder of the easement;

(c) A person having a third-party right of enforcement; or

(d) A person authorized by another law.

(19) By July 1 of each year, the Department of Fish and Wildlife Resources shall report to the Office of the Governor the number, the acreage, and the dollar amount of conservation easements and corresponding tax credits approved for the preceding tax year under this section.

(20) The Department of Fish and Wildlife Resources shall promulgate administrative regulations under the provisions of KRS Chapter 13A to carry out the provisions of this section.

(21) Conservation credits granted under this section shall be allowable for tax periods beginning on or after January 1, 2008. Total conservation credits allowable under this section shall not exceed:

(a) Three million dollars ($3,000,000) for the 2008 tax year;

(b) Five million dollars ($5,000,000) for the 2009 tax year;

(c) Seven million dollars ($7,000,000) for the 2010 tax year; and

(d) Ten million dollars ($10,000,000) for the 2011 tax year and for every tax year thereafter.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(c) The certified rehabilitation credit permitted by KRS 171.397;

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025; and

(o) The clean coal incentive credit permitted by KRS 141.428.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069;~~[and]~~

(d) The household and dependent care credit permitted by KRS 141.067***; and***

(e) The conservation easement credit permitted by Section 1 of this Act.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305; and

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(b) The certified rehabilitation credit permitted by KRS 171.397;

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;~~[and]~~

(o) The clean coal incentive credit permitted by KRS 141.428*; and*

(p) The conservation easement credit permitted by Section 1 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

The Committee Substitute to **HB 354** is as follows:

HB 354, AN ACT relating to tax credits for conservation easements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Wildlife-associated public access" means access for public hunting, fishing, trapping, and other wildlife-related recreational uses that contribute to the management of natural habitat for fish, wildlife, plants, or ecosystems; and

(b) "Donated conservation easement" means a qualified conservation contribution of a qualified real property interest as defined in Section 170(h) of the Internal Revenue Code.

(2) There shall be allowed as a nonrefundable credit against the taxes imposed by KRS 141.020 or 141.040, and 141.0401, with the ordering of credits as prescribed in Section 2 of this Act, an amount equal to:

(a) Twenty-five percent (25%) of the fair market value of a donated conservation easement that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access for five (5) years;

(b) Forty percent (40%) of the fair market value of a donated conservation easement that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access for fifteen (15) years;

(c) Fifty-five percent (55%) of the fair market value of a donated conservation easement that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access for thirty (30) years; or

(d) One hundred percent (100%) of the fair market value of a donated conservation easement that includes an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access for an unlimited duration.

(3) The Department of Fish and Wildlife Resources shall accept applications for tax credits under this section beginning September 1, 2007, for the 2008 calendar year, and beginning January 1 each year thereafter for subsequent calendar years. A taxpayer shall submit an application for the tax credit provided under this section to the Department of Fish and Wildlife Resources by no later than December 31 of each year, and shall identify the fair market value of the donated conservation easement.

(a) The application required by this section shall include an appraisal, which shall determine the fair market value of the donated conservation easement and be competed at the donor's expense. The appraisal shall be completed and signed by a real estate appraiser who is certified under KRS Chapter 324A and is approved as a prequalified fee appraiser by the Kentucky Transportation Cabinet. Any reviews of appraisals shall be completed in accordance with administrative regulations promulgated under this section.

(b) If an appraiser fraudulently overstates the value of the contributed property in an appraisal attested to and

signed by the appraiser, the Department of Fish and Wildlife Resources may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraisers Board for appropriate disciplinary action pursuant to KRS Chapter 324A and to the Internal Revenue Service.

(c) Any contributed property that has been fraudulently overvalued shall be immediately appraised a second time by an appraiser selected by the Department of Fish and Wildlife Resources. The difference between the monetary value of the tax credit taken by the donor based on the overvalued property and the monetary value of the tax credit allowed based on the value assigned by the appraiser selected by the Department of Fish and Wildlife Resources shall be deemed an over-credit. The full value of any over-credit shall be counted against the donor's tax credit in the next tax year and shall count towards the maximum credit amount provided in subsection (9) of this section.

(d) If the tax credits deemed an over-credit have been transferred according to subsection (11) of this section, the donor of the conservation easement shall be liable for treble the full value of the over-credit to the Department of Fish and Wildlife Resources, for use in conservation and land acquisition purposes.

(4) The Department of Fish and Wildlife Resources shall promulgate administrative regulations as needed to:

(a) Establish the method for appraising a property being considered for a conservation easement, and the manner in which the Department of Fish and Wildlife Resources gathers and records the full value of tax credits taken by donors under this chapter;

(b) Establish the parameters and criteria for conservation easements. The criteria set forth in this administrative regulation shall include, but not be limited to, the following:

1. The method for determining that the donated conservation easement meets the provisions of Section 170 (h) of the Internal Revenue Code;

2. The required acreage for a donated easement;

3. The duration of wildlife-associated public access to the donated easement;

4. The easement's compatibility with hunting, fishing, and other wildlife-related recreation; and

5. The preservation of unique or species-critical habitats;

Priority shall be given to easements that preserve land not currently managed by or donated to the Department of Fish and Wildlife Resources; and.

(c) Accomplish any other provisions of this section.

(5) A property that meets any of the following conditions shall not be eligible for the tax credit provided under this section:

(a) The property donated is contiguous to a golf course and the donor has a financial interest in the golf course;

(b) A request for a conservation easement is part of a local, state, or federal regulatory requirement;

(c) The landowner holds, for less than two (2) years, the property to which the conservation easement would apply;

(d) The appraisal is based on preferential zoning or future real estate development; or

(e) Land with disputed boundaries until the dispute is legally resolved.

(6) Applications received pursuant to this section shall be under the control of the commissioner of the Department of Fish and Wildlife Resources, who shall ensure applications are complete, remove all donor-identifying information, and forward the applications to the Conservation Credit Review and Approval Committee, hereby established by this section and consisting of the following Department of Fish and Wildlife Resources personnel:

(a) Director of the Division of Wildlife;

(b) Director of the Division of Fisheries;

(c) Deputy commissioner;

(d) Land acquisition officer; and

(e) Department attorney.

(7) The Conservation Credit Review and Approval Committee shall:

(a) Determine the amount of available tax credit as prescribed in this section, depending on the level of wildlife-associated public access and the fair market value of the donated conservation easement;

(b) Evaluate and approve applications based on qualifications for a donated conservation easement and the criteria set forth in this chapter and administrative regulation; and

(c) Report to the commissioner of the Department of Fish and Wildlife Resources the applications approved for a conservation tax credit.

(8) The commissioner of the Department of Fish and Wildlife Resources shall:

(a) Notify the taxpayer by no later than the fifteenth day of March of the amount of any approved credit; and

(b) Notify the Department of Revenue by no later than the fifteenth day of March of the name and address of each taxpayer approved for credit, the amount of approved credit, and the Social Security number or federal

employer identification number of the taxpayer.

(9) The amount of credit approved by the Conservation Credit Approval and Review Committee, in accordance with this section, shall be limited to a maximum of two million five hundred thousand dollars ($2,500,000) per donated conservation easement. A maximum of two hundred fifty thousand dollars ($250,000) may be taken by each taxpayer in each taxable year, except that in the case of spouses filing separate returns or filing separately on a combined return, the credit may either be taken entirely by one (1) spouse or may be divided equally, with the combined credit not exceeding two hundred fifty thousand dollars ($250,000) per taxable year.

(10) If the credit amount that may be taken in any tax year exceeds the taxpayer's total tax liabilities under KRS 141.020 or 141.040, and 141.0401, with the ordering of credits as prescribed in Section 2 of this Act, the taxpayer may carry the excess tax credit forward until all tax credit is taken, provided that any tax credit not taken within twenty (20) years of approval of the tax credit shall be lost.

(11) Credits approved under this section may be transferred or assigned, with or without consideration, along with any related benefits, rights, responsibilities, and liabilities, to any person. The provisions of this subsection shall apply to any credits that pass through to a taxpayer's successor or beneficiary. Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Department of Revenue and the Department of Fish and Wildlife Resources of the following:

(a) The name, address, employer identification number, bank routing number, and transfer number of the party to which the credits are transferred;

(b) The amount of credits transferred; and

(c) Any additional information the Department of Revenue prescribes in an administrative regulation.

(12) The taxes imposed by KRS 141.020 or 141.040, and 141.0401 shall apply to any consideration received for the transfer, sale, or assignment of a tax credit approved under this section, but shall not apply to the use of tax credits approved under this section.

(13) A landowner receiving a tax credit that includes wildlife-associated public access may apply to extend the term of public access as follows:

(a) A tax credit for fifteen (15) years of wildlife-associated public access may be extended to thirty (30) years of wildlife-associated public access, with the extended tax credit based on fifteen percent (15%) of the fair market value of the conservation easement as valued when the conservation easement was donated;

(b) A tax credit for fifteen (15) years of wildlife-associated public access may be extended to an unlimited duration of wildlife-associated public access, with the extended tax credit based on sixty percent (60%) of the fair market value of the conservation easement as valued when the conservation easement was donated; and

(c) A tax credit for thirty (30) years of wildlife-associated public access may be extended to an unlimited duration of wildlife-associated public access, with the extended tax credit based on forty-five percent (45%) of the fair market value of the conservation easement as valued when the conservation easement was donated.

Wildlife-associated public access extensions under this subsection must be approved by the Conservation Credit Review and Approval Committee. All tax credits approved under this subsection shall be included in determining the limits contained in subsection (21) of this section for the calendar year in which the application for extension is filed, and shall be subject to the limits established by subsection (9) of this section. Extended tax credits under this subsection may be carried forward in accordance with subsection (10) of this section counting from the date on which the extension was approved.

(14) Any owner of a property subject to an agreement with the Department of Fish and Wildlife Resources for wildlife-associated public access wishing to terminate the agreement may do so after thirty (30) days' written notice. The property owner terminating the agreement for wildlife-associated public access shall be required to pay a termination penalty to the Department of Fish and Wildlife Resources as follows:

(a) A property owner terminating a fifteen (15) year wildlife-associated public access agreement shall be required to pay fifteen percent (15%) of the fair market value of the donated conservation easement as valued when the conservation easement was donated;

(b) A property owner terminating a thirty (30) year wildlife-associated public access agreement shall be required to pay thirty percent (30%) of the fair market value of the donated conservation easement as valued when the conservation easement was donated; or

(c) A property owner terminating an unlimited duration wildlife-associated public access agreement shall be required to pay seventy-five (75%) of the fair market value of the donated conservation easement as valued when the conservation easement was donated.

(15) Receiving tax credits under this section shall not be deemed as charging for access pursuant to KRS 411.190.

(16) A landowner receiving a tax credit for a donated conservation easement, which includes wildlife-associated public access, shall have the same liability protections as in KRS 150.645 and 411.190 for landowners who consent to

hunting, fishing, trapping, camping, or hiking on premises at no charge.

(17) Upon donation, the landowner shall maintain the donated conservation easement to comply with the provisions of Section 170(h) of the Internal Revenue Code. The holder of a donated conservation easement shall be responsible for the ongoing compliance monitoring of the easement, and shall submit by January 31 of each year, an annual report to the Department of Fish and Wildlife Resources, attesting to the easement's continued compliance with Section 170(h) of the Internal Revenue Code. The annual report shall be in a format prescribed by the Department of Fish and Wildlife Resources and promulgated in administrative regulations. If the Department of Fish and Wildlife Resources is informed of any violation of the agreement for wildlife-associated public access or the requirements for a donated conservation easement, the Department of Fish and Wildlife Resources shall investigate and shall determine if the agreement has been violated. If the Department of Fish and Wildlife Resources determines that the agreement has been violated, the department shall provide thirty (30) days for the landowner to respond to a request to remedy the violation. If the violation is not corrected to the satisfaction of the Department of Fish and Wildlife Resources, a notice of noncompliance shall be issued to the landowner or easement holder, respectively, and the Department of Revenue shall be notified that the conservation tax credit is no longer valid for each taxable year that ends subsequent to the date the Department of Revenue is notified.

(18) A taxpayer that is a pass-through entity as defined in KRS 141.010 shall distribute the amount of approved credit to each partner, owner, or shareholder based on the partner's, owner's, or shareholder's distributive share of the income of the pass-through entity. Each pass-through entity shall notify the Department of Revenue electronically of all partners, owners, or shareholders who may claim any amount of the approved credit. Failure to provide information to the Department of Revenue in a manner prescribed by regulation may constitute the forfeiture of available credits to all partners, owners, or shareholders associated with the pass-through entity.

(19) An action affecting a conservation easement shall be brought in Franklin Circuit Court and may be brought by:

(a) An owner of an interest in the real property burdened by the easement;

(b) A holder of the easement;

(c) A person having a third-party right of enforcement; or

(d) A person authorized by another law.

(20) By July 1 of each year, the Department of Fish and Wildlife Resources shall report to the Department of Revenue and the Legislative Research Commission, the number, acreage, and dollar amount of conservation easements and corresponding tax credits approved for the preceding taxable year under this section.

(21) Credits approved under this section shall be allowable for taxable years beginning on or after January 1, 2008, and shall only be allowed to the extent approved by the General Assembly in the executive branch budget bill in effect for the current biennium. Total credits approved under this section shall not exceed:

(a) Three million dollars ($3,000,000) for applications received for the 2008 calendar year;

(b) Five million dollars ($5,000,000) for applications received for the 2009 calendar year;

(c) Seven million dollars ($7,000,000) for applications received for the 2010 calendar year; and

(d) Ten million dollars ($10,000,000) for applications received for the 2011 calendar year and for every calendar year thereafter.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(c) The certified rehabilitation credit permitted by KRS 171.397;

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025; and

(o) The clean coal incentive credit permitted by KRS 141.428.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069;[~~and~~]

(d) The household and dependent care credit permitted by KRS 141.067***; and***

(e) The conservation easement credit permitted by Section 1 of this Act.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305; and

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;

(b) The certified rehabilitation credit permitted by KRS 171.397;

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;[~~and~~]

(o) The clean coal incentive credit permitted by KRS 141.428***; and***

(p) The conservation easement credit permitted by Section 1 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

The Committee Amendment No. 1 to the Committee Substitute to **HB 354** is as follows:

HB 354, On page 1, line 15, by placing a "***;***" after the word "***easement***", and deleting the remainder of the line; and
On page 1, lines 16 and 17, by deleting all text.

The Committee Amendment No. 2 to the Committee Substitute to **HB 354** is as follows:

HB 354, On page 10, after line 14 and before line 15, insert the following:

"*(22) The maximum credit awarded within any county in this state by the Conservation Credit Approval and Review Committee shall not exceed five percent (5%) of the credits awarded each year.*".

HB 462, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation, a partnership, and a limited partnership if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, limited partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more;~~[and]~~

4. The new construction of an electric generation facility; *and*

5. The legal possession of facilities by an approved company or its affiliate pursuant to a lease having a term equal to or greater than fifteen (15) years with a third party entity, negotiated at arms length, if the facility will be used by the approved company to conduct the approved activity for which the inducement has been granted. An economic development project qualifying under this subparagraph shall only be eligible for credits against equipment and costs related to installation of equipment and for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080 only to the extent of twenty thousand dollars ($20,000) per job created by and maintained at the economic development

project. Notwithstanding KRS 154.22-050(8) and 154.22-060, an economic development project qualifying under this subparagraph shall be eligible only for the aggregate assessments pursuant to KRS 154.22-070 withheld by the approved company each year and shall not be eligible for credit against Kentucky income tax and limited liability entity tax;

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. ***and 5.*** of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;

(23) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(24) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 2. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" has the same meaning as in KRS 154.22-010;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate;[~~ or~~]

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more***; and***

4. The legal possession of facilities by an approved company or its affiliate pursuant to a lease having a term equal to or greater than ten (10) years with a third party entity, negotiated at arms length, if the facility will be used by the approved company to conduct the approved activity for which the inducement has been granted. An economic development project qualifying under this subparagraph shall only be eligible for credits against equipment and costs related to installation of equipment and for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090 only to the extent of twenty thousand dollars ($20,000) per job created by and maintained at the economic development project. Notwithstanding KRS 154.28-090, an economic development project qualifying under this subparagraph shall be eligible only for the aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year and shall not be eligible for credit against Kentucky income tax and limited liability entity tax;[~~.~~]

(b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. ***and 4.,*** and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ***twenty***[~~ten~~] thousand dollars ***($20,000)***[~~($10,000)~~] per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

(18) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and

(19) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401.

HB 500, AN ACT relating to the Local Government Economic Development Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.4588 is amended to read as follows:

(1) (a) A Local Government Economic Development Program is established to consist of a system of grants to counties to attract new industry. Grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be administered by the Department for Local Government. Grants from funds provided for in KRS 42.4592(1)(c) shall be administered by the Kentucky Economic Development Finance Authority.

(b) All references in this section to the commissioner of the Department for Local Government relate only to the grants or industrial development projects funded through KRS 42.4592(1)(a) and (b). All references in this section to the secretary of the Cabinet for Economic Development or the Kentucky Economic Development Finance Authority relate only to grants or industrial development projects funded through KRS 42.4592(1)(c).

(2) Grants obtained under this program shall be used for:

(a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority or the Department for Local Government, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government;

(b) Industrial development projects if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government; and

(c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government under the provisions of subsection (3) of this section.

(3) The secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary or the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary or the commissioner may also approve privately owned facilities for transient lodging and recreation where the secretary finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in subsection (10)(a), (b), and (c) of this section shall be paramount in the case of lodging and recreational facilities.

(4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

(5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.

(6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.

(7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.

(8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).

(9) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government. Award of grants from funds provided for in KRS 42.4592(1)(c) shall be by the Kentucky Economic Development Finance Authority. Award of grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be by the commissioner of the Department for Local Government.

(10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

(a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;

(b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;

(c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;

(d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;

(e) The needs of any industrial firm benefiting from the industrial development project;

(f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;

(g) The amount of capital made available to the facility by lenders and by the industrial firm; and

(h) The economic feasibility of the facility.

(11) For purposes of this section:

(a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;

(b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;

(c) "Job development incentive grant" means an award to a county of funds from its account administered by the Department for Local Government pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant shall be limited to five thousand dollars ($5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars ($10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Department for Local Government, the county, the industrial firm, and the Department for Local Government shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;
2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Department for Local Government which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

(d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.

(12) Findings by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

(13) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development and the commissioner of the Department for Local Government shall each provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

(14) Projects involving funds provided for in KRS 42.4592(1)(a) or (b) whose funding is specifically authorized in an executive branch budget bill enacted into law shall be deemed approved and not subject to the application process provided in this section. These projects shall, however, be subject to a memorandum of agreement between the grantee and the Department for Local Government regarding all other legal requirements for the disbursement and accounting of funds.

Section 2. Section 1 of this Act shall apply to projects beginning with those authorized in the 2006-2008 biennial budget.

HB 536, AN ACT relating to economic development, making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subchapter, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company and set forth in the jobs retention agreement at any time within a three (3) year period after the date of final approval of the agreement by the authority upon which the required investment shall be made and the jobs retention project completed;

(2) "Agreement" means a jobs retention agreement entered into, pursuant to Section 3 of this Act, on behalf of the authority and an approved company with respect to a jobs retention project;

(3) "Approved company" means any eligible company approved by the authority pursuant to Section 3 of this Act for a jobs retention project;

(4) "Approved costs" means that portion of the eligible costs approved by the authority that an approved company may

recover through the inducements authorized by Section 3 of this Act, being a percentage of eligible costs as approved by the authority;

(5) "Assessment" means the wage assessment fee authorized by Section 4 of this Act;

(6) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity designated by the United States Department of Commerce, United States Census Bureau North American Industry Classification System code of 336211, 336111, 336112, or 336120 that is within the jurisdiction of a consolidated local government containing a city of the first class, employs a minimum of one thousand (1,000) full-time persons engaged in manufacturing, has been operating within the Commonwealth on a continuous basis for at least five (5) years preceding the request for approval by the authority of the project which meets the standards set forth in Section 2 of this Act, and that has been previously approved for economic development incentives from the Commonwealth related to one or more of its facilities;

(9) "Eligible costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of a jobs retention project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;

(e) All costs required for the installation of utilities including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(10) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(11) "Inducements" means the Kentucky tax credit and the wage assessment fee as prescribed in Sections 3 and 4 of this Act;

(12) "Jobs retention project" or "project" means the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the acquisition, construction, and installation of new equipment, including surveys; installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located; and shall contain eligible costs of not less than one hundred million dollars ($100,000,000), all of which are utilized to improve the economic and operational situation of an approved company to allow the approved company to reinvest in its operations and retain a significant number of existing jobs within the Commonwealth;

(13) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401;

(14) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401;

(15) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(16) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(17) "Supplemental project" means a second jobs retention project proposed by the approved company or its affiliate during the term of a jobs retention project which may be included in the jobs retention agreement by way of amendment and which may result in increased inducements and an extension of the original project term; and

(18) "Transferred credits" means unused approved costs as determined by the Department of Revenue from a previously approved, independent, active project under a different incentive program governed by the Cabinet for Economic Development that may be transferred to a jobs retention project and used by the approved company pursuant to a jobs retention agreement.

SECTION 2. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The criteria for approval of eligible companies and jobs retention projects shall include but not be limited to:

(a) The need for the project as indicated by the impact of the existing facility upon the local community and the economic and employment impact that the loss of the facility would have;

(b) The new capital investment in its facilities and the likelihood that the capital investment will increase potential for sustainability of its workforce and facilities in the future; and

(c) The retention or creation of employment at the facility where the jobs retention project will occur as well as any other facilities owned by the approved company in the Commonwealth.

(2) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the jobs retention project. The authority and the preliminarily approved company shall enter into a memorandum of agreement that sets forth the conditions necessary for the company to obtain final approval of the project. Upon satisfaction of the conditions set forth in the memorandum of agreement, the authority may, by resolution, designate the preliminarily approved company to be an approved company and authorize the execution of a jobs retention agreement.

SECTION 3. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to the jobs retention project. The terms and provisions of each agreement, including the amount of approved costs, the amount of the inducement, the job maintenance requirement and any limitations the authority may deem necessary, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The amount the approved company may recover through inducements under this subchapter for the initial project, which shall be a negotiated percentage not to exceed fifty percent (50%) of approved costs. However, the authority may negotiate an increase in the percentage such that both the initial project and the supplemental project are eligible for seventy-five percent (75%) of approved costs upon approval of a supplemental project. The adjustment to the initial project shall be made on the total approved costs and any credits taken prior to the supplemental project shall then be subtracted from that increased amount of approved costs. Neither the initial project or the supplemental project shall ever be eligible for inducements greater than seventy-five percent (75%) of the approved costs. The authority shall negotiate a maximum allowable inducement for each year of the agreement and the approved company may not recover inducements above that maximum in any year during the term of the agreement, except that the annual maximum allowable inducement may be exceeded if a carry-forward of unused inducements from previous years exists. Any carry-forward of unused inducements will lapse upon maturity or termination of the agreement;

(b) A provision that sets the activation date for the initial project within three (3) years of the final approval. Prior to the activation date, the authority may extend the time for the completion of the jobs retention project and compliance with the required investment upon request of the approved company for good cause; however, the ten (10) year period for the term of the agreement shall begin from the activation date. No inducements from the jobs retention project shall be available, other than the transferred credits provided for under Section (3) of this Act, until activation. Upon activation, the balance of transferred credits shall expire;

(c) A provision that states that within three (3) months of the completion of the jobs retention project, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant;

(d) A provision that establishes a minimum required number of full-time jobs that must be maintained at the site of the jobs retention project and filled with residents of the Commonwealth subject to Kentucky income tax and states that the authorized inducements may be suspended at the discretion of the authority from the date of noncompliance until the date compliance is reestablished if the approved company's employment falls below the established minimum employment requirement. If the company does not increase the number of full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax sufficiently to meet the minimum employment requirement within one (1) year from the date of the initial suspension, the remaining unused inducements may be terminated at the discretion of the authority;

(e) A provision that gives the authority discretion to suspend or terminate the authorized inducements for any failure to comply with the terms of the agreement; and

(f) A provision that provides the term shall not be longer than the earlier of:

1. The date on which the approved company has received inducements or withheld assessments equal to *the amount that the company may recover under paragraph (a) of this subsection; or*

2. Ten (10) years from the activation date.

However, the term may be extended to a period longer than ten (10) years upon the addition of a supplemental project as negotiated and approved by the authority.

(2) In consideration of the execution of the agreement, during the time the agreement is in effect, which time shall commence on the date of the agreement, the approved company may be permitted the following inducements:

(a) Beginning on the effective date of the jobs retention agreement, which shall also be the date of final approval, if the approved company has a balance of unused approved costs on a previously existing and active incentive agreement approved by the authority pursuant to Subchapter 24 or 28 of KRS Chapter 154, the approved company may impose wage assessments on employees whose jobs are at the facility where the project defined in the previously existing incentive agreement was located. The wage assessments may be imposed as provided in Section 4 of this Act, and shall be available in an amount up to the balance of transferred credits from the previously existing project.

1. The transferred credits shall only be available to the approved company until the activation date, the term from the original incentive agreement expires, or the balance of transferred credits is exhausted, whichever occurs first; and

2. Should the approved company exercise this option, the incentive agreement from which the credits were transferred shall be terminated upon transfer and all parties shall be released from their obligations thereunder.

(b) After the activation date:

1. A one hundred percent (100%) credit against the taxes imposed by KRS 141.020, 141.040, and 141.0401 that would otherwise be owed by the approved company, in the approved company's taxable year, as determined under Section 6 of this Act, on the taxable income, Kentucky gross receipts, or Kentucky gross profits of the approved company generated by or arising from the jobs retention project. The ordering of credits shall be as provided in KRS 141.0205;

2. The aggregate assessment withheld by the approved company as provided in Section 4 of this Act in each year after the activation date.

(c) The tax credits allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or the amount that the company may recover under subsection (1)(a) of this section that has not yet been recovered, reduced by any recovery through the collection of assessments subject to the annual maximum inducements authorized pursuant to subsection (1)(a) of this section. The credit shall be allowed for each taxable year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the amount that the company may recover under subsection(1)(a) of this section has been received through a combination of credits and assessments, if the company elects to impose assessments. The approved company shall not be required to pay estimated tax payments as prescribed under KRS 141.044 or 141.305 on income, Kentucky gross profits, or Kentucky gross receipts from the jobs retention project. One hundred eighty (180) days after the filing of the tax return of the approved company, the Department of Revenue shall certify to the authority the state tax liability for the preceding taxable year of the approved company and the amount of any tax credits taken pursuant to this section.

(d) Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees a resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees on wages subject to the agreement paid by the approved company on behalf of its employees to the local government entities.

(e) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

(f) If in any taxable year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, or exceeds the annual maximum negotiated by the authority, the assessment collected from the wages of the employees shall cease for the remainder of that taxable year of the approved company. The approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that taxable year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(3) The jobs retention agreement and inducements available pursuant thereto shall not be transferable or assignable by

the approved company without the expressed written consent of the authority.

SECTION 4. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed five percent (5%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 unless:

- ***(a) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee;***
- ***(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forego a portion of their local occupational license fee, in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four times the percentage the local government or governments agree to forego;***
- ***(c) The local government or governments in which the project is located have a local occupational license fee equal to or greater than one percent (1%) and the local government or governments agree to forego an amount less than one percent (1%) in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four times the percentage the local government or governments agree to forego; or***
- ***(d) The local government or governments in which the project is located have no local occupational license fee, in which case the assessment shall equal four percent (4%).***

(2) Each assessed employee shall be entitled to a credit against the Kentucky income tax required to be withheld under KRS 141.310 in the form of a simultaneous adjustment equal to four-fifths (4/5) of the assessment, unless:

- ***(a) The assessment is calculated under subsection (1)(a) of this section, in which case the credit shall be equal to the total assessment less the occupational license fee; or***
- ***(b) The assessment is calculated under subsection (1)(d) of this section, in which case the credit shall be equal to one hundred percent (100%) of the assessment.***

(3) Each employee assessed under subsection (1) of this section also shall be entitled to a credit against the local occupational license fee in the form of a simultaneous adjustment of the local occupational license fee withholding equal to one-fifth (1/5) of the assessment, unless the wage assessment is calculated under subsection (1)(a), in which case the credit shall equal the same amount as the local occupational license fee.

(4) If an approved company elects to impose the assessment as a condition of employment or the retention of employment, the approved company shall deduct the assessment from each paycheck of each employee subject to the provisions of subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company shall permanently lapse upon expiration or termination of the agreement unless the agreement has been amended to extend the termination as a result of a supplemental project.

(7) By October 1 of each year, the Department of Revenue shall certify to the authority, in the form of an annual report, aggregate tax credits claimed on tax returns filed during the taxable year ending June 30 of that year and wage assessment fees taken during the prior calendar year by approved companies with respect to their jobs retention projects under this subchapter, and shall certify to the authority, within one hundred eighty (180) days from the date an approved company has filed its state tax return, when an approved company has taken tax credits equal to its total inducements.

SECTION 5. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If an approved company makes an additional investment in the form of a second jobs retention project within the jurisdiction of the same consolidated local government containing a city of the first class during the term of the initial jobs retention project, the approved company may apply for, and the authority may approve, a supplemental project.

(2) The authority, upon adoption of its final approval of a supplemental project, may enter into, with any approved company, an amended agreement with respect to both the initial jobs retention project and the supplemental project which shall jointly make up its project. The terms and provisions of each amended agreement, including the amount of approved costs, the amount of the tax credit pursuant to Section 3 of this Act, the job maintenance requirement established by the agreement, and any limitations the authority may deem necessary, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) Upon approval of a supplemental project, the amount the approved company may recover through inducements for both projects shall be a negotiated percentage not to exceed seventy-five percent (75%) of the balance of approved costs from the initial project and all newly incurred approved costs from the supplemental project, subject to the annual maximum negotiated and approved by the authority. At the time the supplemental project is approved, the recoverable amount and the annual maximum inducement on the initial jobs retention project may also be increased at the discretion of the authority pursuant to Section 3 of this Act.

(b) The activation date for the supplemental project shall be no more than three (3) years from final approval of the supplemental project. Prior to the activation date the authority may extend the time for the completion of the jobs retention project and compliance with the required investment upon request of the approved company for good cause; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Within three (3) months of the completion date for the supplemental project, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant to verify the cost of the supplemental project subject to reimbursement for the cost of same from the approved company.

(c) In consideration of the execution of the amended agreement, on the date stated in the agreement, the approved company may be permitted during the term of the amended agreement to take the inducements set forth in Sections 3(2)(b) and 3(2)(c) of this Act, subject to the remaining terms of that section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in Section 1 of this Act;

(b) "Jobs retention project" shall have the same meaning as set forth in Section 1 of this Act;

(c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401;

(d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and

(e) "Tax credit" means the tax credit allowed in Section 3 of this Act.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040(1) shall:

(a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from the jobs retention project;

2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

(b) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to the jobs retention project;

2. Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

(c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in Section 3 of this Act.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to a jobs retention project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in Section 3 of this Act.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.

(6) (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and

(b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.

(7) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the jobs retention project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the jobs retention project using an alternative method approved by the Department of Revenue.

(8) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this Act and the allowable income tax credit which an approved company may retain under this Act.

Section 7. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
    - 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, ***Section 6 of this Act,*** and 154.12-2088;
- (c) The certified rehabilitation credit permitted by KRS 171.397;
- (d) The health insurance credit permitted by KRS 141.062;
- (e) The tax paid to other states credit permitted by KRS 141.070;
- (f) The credit for hiring the unemployed permitted by KRS 141.065;
- (g) The recycling or composting equipment credit permitted by KRS 141.390;
- (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- (i) The coal incentive credit permitted under KRS 141.0405;
- (j) The research facilities credit permitted under KRS 141.395;
- (k) The employer GED incentive credit permitted under KRS 151B.127;
- (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- (m) The biodiesel credit permitted by KRS 141.423;
- (n) The environmental stewardship credit permitted by KRS 154.48-025; and
- (o) The clean coal incentive credit permitted by KRS 141.428.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) The individual credits permitted by KRS 141.020(3);
- (b) The credit permitted by KRS 141.066;
- (c) The tuition credit permitted by KRS 141.069; and
- (d) The household and dependent care credit permitted by KRS 141.067.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

  (a) The individual withholding tax credit permitted by KRS 141.350;

  (b) The individual estimated tax payment credit permitted by KRS 141.305; and

  (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

  (a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, ***Section 6 of this Act***, and 154.12-2088;

  (b) The certified rehabilitation credit permitted by KRS 171.397;

  (c) The health insurance credit permitted by KRS 141.062;

  (d) The unemployment credit permitted by KRS 141.065;

  (e) The recycling or composting equipment credit permitted by KRS 141.390;

  (f) The coal conversion credit permitted by KRS 141.041;

  (g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

  (h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

  (i) The coal incentive credit permitted under KRS 141.0405;

  (j) The research facilities credit permitted under KRS 141.395;

  (k) The employer GED incentive credit permitted under KRS 151B.127;

  (l) The voluntary environmental remediation credit permitted by KRS 141.418;

  (m) The biodiesel credit permitted by KRS 141.423;

  (n) The environmental stewardship credit permitted by KRS 154.48-025; and

  (o) The clean coal incentive credit permitted by KRS 141.428.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

Section 8. There is hereby appropriated from the General Fund in fiscal year 2007- 2008 to the Cabinet for Economic Development, Financial Incentives, for use by the Bluegrass State Skills Corporation, the amount of $10,000,000.

Section 9. Whereas the Commonwealth is at risk of losing large motor vehicle manufacturing facilities, their supplier facilities, and a significant number of jobs related thereto due to the current state of the automotive industry, and as it is essential for the Cabinet for Economic Development to have a mechanism in place to offer appropriate assistance to retain those facilities and the jobs associated with them immediately, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Calendar

HB 313, 460, 468, 316, 359, 402, 207, 543, 206, 398, 437, 129, HCR 126, 139, HB 220, 283, 361, 439, 464, HCR 16, 107, HR 123, HCR 141, 151, HB 112, 288, 314, 378, 431, 459, HJR 13, HB 127, and **490** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative S. Lee moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative S. Lee moved the adoption of the following **Legislative Citation No. 48.**

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the members of the Paul Laurence Dunbar High School Varsity Cheerleaders for outstanding performance in the 2007 Universal Cheering Association National High School Cheerleading Championship competition in Orlando, Florida, that resulted in the PLDHS Varsity Squad capturing their fourth consecutive national title in the Large Varsity Division, and their fifth win in the school's history. This year's notable victory demonstrates the extraordinary effort, perseverance and hard work put forth by the members and coaching staff of this stellar twenty-three member team, each of whom is applauded for demonstrating such dedication in pursuit of this outstanding accomplishment. The members of this honorable body are delighted to join Representative Stan Lee in commending the members of the Paul Laurence Dunbar High School Varsity Cheerleading Squad for the great honor and acclaim they continue to bring to the Fayette County community and this Commonwealth and in extending best wishes for continued monuments of athletic success. Done in Frankfort, Kentucky, this twenty-third day of February, in the year two thousand and seven.

Legislative Citation No. 48 was adopted without objection.

Orders of the Day

HB 94, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of the Committee Substitute to **HB 94**. Agreed.

Representative Pullin moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 94**. Agreed.

Representative Pullin moved that **HB 94**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 23, 2007, roll call on **HB 94** - Appendix.)

HB 94, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Pullin moved that the vote by which **HB 94**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 7, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved the adoption of the Committee Substitute to **HJR 7**. Agreed.

Representative Meeks moved that **HJR 7**, by way Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 23, 2007, roll call on **HJR 7** - Appendix.)

HJR 7, by way of Committee Substitute, was adopted.

Representative Meeks moved the adoption of Committee Amendment No. 1 Title to **HJR 7**. Agreed.

Representative Meeks moved that the vote by which **HJR 7**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 75, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved the adoption of Floor Amendment No. 1 to **HB 75**. Agreed.

Representative Thompson moved that **HB 75**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 23, 2007, roll call on **HB 75** - Appendix.)

HB 75, as amended, was passed and the title agreed to.

Representative Thompson moved that the vote by which **HB 75**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 210, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of Floor Amendment No. 3 to **HB 210**. Agreed.

Representative Gray moved that **HB 210**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 1.** (See February 23, 2007, roll call on **HB 210** - Appendix.)

HB 210, as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 210**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 337 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HB 337** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 23, 2007, roll call on **HB 337** - Appendix.)

HB 337 was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 337** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 321, Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved the adoption of Floor Amendment No. 1 to **HB 321**. Agreed.

Representative C. Belcher moved that **HB 321**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 1.** (See February 23, 2007, roll call on **HB 321** - Appendix.)

HB 321, as amended, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 321**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 124, with Committee Substitute and Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved the adoption of the Committee Substitute to **HB 124**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 124**. Agreed.

Representative Horlander moved that **HB 124**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See February 23, 2007, roll call on **HB 124** - Appendix.)

HB 124, by way of Committee Substitute, as amended, was passed.

Representative Horlander moved the adoption of Committee Amendment No. 1 Title to **HB 124**. Agreed.

Representative Horlander moved that the vote by which **HB 124**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 448 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 448** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 23, 2007, roll call on **HB 448** - Appendix.)

HB 448 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 448** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 373 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Glenn moved that **HB 373** be passed.

Representative Meeks inquired whether the bill is germane to the title.

The Speaker ruled that the bill is germane.

On the roll call the vote was: **Yeas 94, Nays 1.** (See February 23, 2007, roll call on **HB 373** - Appendix.)

HB 373 was passed and the title agreed to.

Representative Glenn moved that the vote by which **HB 373** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 374, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to **HB 374**. Agreed.

Representative J. Lee moved that **HB 374, as amended,** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 23, 2007, roll call on **HB 374** - Appendix.)

HB 374, as amended, was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 374,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 5, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HJR 5** be adopted.

On the roll call the vote was: **Yeas 92, Nays 1.** (See February 23, 2007, roll call on **HJR 5** - Appendix.)

HJR 5 was adopted.

Representative Vincent moved that the vote by which **HJR 5** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 2 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HB 2** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 23, 2007, roll call on **HB 2** - Appendix.)

HB 2 was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 2** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 23, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 23**. Agreed.

Representative Wayne moved that **HB 23,** by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 23, 2007, roll call on **HB 23** - Appendix.)

HB 23, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 23,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 214, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of the Committee Substitute to **HB 214**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 214**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 2 to the Committee Substitute, to **HB 214**. Agreed.

Representative Riggs moved that **HB 214**, by way of Committee Substitute, as amended, be passed.

Representative Adkins moved that **HB 214** be placed back in the Orders of the Day and retain its position. Agreed.

HB 266 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bell moved that **HB 266** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 23, 2007, roll call on **HB 266** - Appendix.)

HB 266 was passed and the title agreed to.

Representative Bell moved that the vote by which **HB 266** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 109, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkman moved the adoption of the Committee Substitute to **HB 109**. Agreed.

Representative Brinkman moved that **HB 109**, by way of Committee Substitute, be passed.

The Speaker Pro Tem assumed the chair.

Speaker Richards resumed the chair.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 23, 2007, roll call on **HB 109** - Appendix.)

HB 109, by way of Committee Substitute, was passed and the title agreed to.

Representative Brinkman moved that the vote by which **HB 109**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 152, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 152**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 152**. Agreed.

Representative Marzian moved that **HB 152**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 23, 2007, roll call on **HB 152** - Appendix.)

HB 152, by way of Committee Substitute, as amended, was passed.

Representative Marzian moved the adoption of Committee Amendment No. 1 Title to **HB 152**. Agreed.

Representative Marzian moved that the vote by which **HB 152**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 107, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of the Committee Substitute to **HB 107**. Agreed.

Representative Pullin moved that **HB 107**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 23, 2007, roll call on **HB 107** - Appendix.)

HB 107, by way of Committee Substitute, was passed and the title agreed to.

Representative Pullin moved that the vote by which **HB 107**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 138 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Keene moved that **HB 138** be passed.

On the roll call the vote was: **Yeas 60, Nays 30**. (See February 23, 2007, roll call on **HB 138** - Appendix.)

HB 138 was passed and the title agreed to.

Representative Keene moved that the vote by which **HB 138** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 203, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of the Committee Substitute to **HB 203**. Agreed.

Representative McKee moved that **HB 203**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 23, 2007, roll call on **HB 203** - Appendix.)

HB 203, by way of Committee Substitute, was passed.

Representative McKee moved the adoption of Committee Amendment No. 1 Title to **HB 203**. Agreed.

Representative McKee moved that the vote by which **HB 203**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 75 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 75** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 23, 2007, roll call on **HCR 75** - Appendix.)

HCR 75 was adopted.

Representative Adkins moved that the vote by which **HCR 75** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Palumbo moved the adoption of the following **HR 167**:

HR 167, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Captain Barth H. Pemberton.

WHEREAS, Captain Barth H. Pemberton was a graduate of Lafayette High School and the University of Kentucky; and

WHEREAS, Capt. Pemberton received his commission in the United States Navy in 1964, embarking on a career that would see him serve as Chief Engineer on the USS *Liddle* and the USS *Beverly W. Reid*. Capt. Pemberton was awarded the Navy Achievement Medal in 1967 for his admirable service, and retired from the U.S. Navy Reserve in 1991; and

WHEREAS, Capt. Pemberton led the Fayette County Board of Education as chairman for 14 of his 16 years on the board, seeing the county's schools through a period of transformation and contention with grace and class. Capt. Pemberton oversaw the transition from a junior high school model to a middle school model, the opening of Paul Laurence Dunbar High School, the city's first new high school in 25 years, and the tough decisions necessary in the wake of shrinking enrollment and budgets. Captain Pemberton also was a leader among his fellow education administrators, serving as president of the Kentucky School Boards Association, chairman of the National School Boards Association's Central Region, on the board of directors for the Kentucky School Boards Trust, and on the National Council for the Accreditation of Teacher Education Board of Examiners; and

WHEREAS, Capt. Pemberton was also a respected business leader in the community, owning W.P. Pemberton and Sons Greenhouses; and

WHEREAS, Capt. Pemberton was an active member of Central Christian Church and the Boy Scout Council Executive Committee, adding to his lifelong commitment to service and community involvement; and

WHEREAS, Capt. Pemberton was the devoted husband of 41 years of Judith Bevins Pemberton; the dedicated father of Ashley P. Herndon, Janna P. Schmidt, and Colin F. Pemberton; and the adoring grandfather of Mack Herndon, Kendall Herndon, Kylie Schmidt, and Alex Schmidt; and

WHEREAS, Capt. Pemberton departed this life on February 12, 2007, while on a cruise with his wife. His death at sea was a fitting end to a life well-lived, and an entire community joins his family and friends in mourning his loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Captain Barth H. Pemberton and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Captain Barth H. Pemberton.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Ruth Ann Palumbo for personal presentation to Captain Pemberton's family.

There being no objection, **HR 167** was adopted.

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on the following: **HB 438, 126, 292,** and **HCR 160**. Agreed.

Representative Adkins moved that **HB 540, 177, 259, 260,** and **310** be placed in the Orders of the Day. Agreed.

Representative Adkins moved that **HB 318** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Adkins moved that **HB 352** be recommitted to the Committee on Banking and Insurance. Agreed.

Representative Comer moved the adoption of the following **HR 124**:

HR 124, A RESOLUTION honoring and commending Dr. Lawrence P. Emberton.

WHEREAS, Lawrence P. Emberton, M.D., of Edmonton, is a recipient of the prestigious 2007 Pride in the Profession Award. The award is presented by the American Medical Association Foundation, and is given to four domestic physicians who aid underserved populations throughout the United States; and

WHEREAS, Dr. Lawrence P. Emberton received his formal education from Western Kentucky University, the University of Louisville, and Berea College, prior to joining the Navy and graduating from the Medical College of South Carolina; and

WHEREAS, growing up in the impoverished South, Dr. Emberton consciously chose to return to his roots because he understood the meaning of serving others; and

WHEREAS, as a practicing physician, Dr. Lawrence P. Emberton has worked tirelessly to provide much-needed medical services to the residents of Metcalfe County for over 56 years; and

WHEREAS, Dr. Emberton has led the way for health care in the community, serving a population of over 9,000 as its only constant resident physician; and

WHEREAS, with the closest hospital 20 miles away, Dr. Emberton has served his patients as pediatrician, obstetrician/gynecologist, radiologist, geriatrician, pathologist, and more; and

WHEREAS, Dr. Emberton has served with compassion and without exception, as the average per capita income is less than $14,000 and nearly a quarter of the population lives below the poverty level; and

WHEREAS, Dr. Emberton has demonstrated his dedication to the community, by making house calls on horseback and trading medical care for produce to accommodate low-income patients; and

WHEREAS, besides dedicating much of his time to the practice of medicine, Dr. Emberton has enriched the community in numerous ways. His community service efforts include 23 years as a City Councilman, 38 years as a church deacon, and 30 years as a Sunday school teacher;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby congratulate and commend Lawrence P. Emberton, M.D. upon the receipt of the 2007 Pride in the Profession Award.

Section 2. The House of Representatives recognizes the extraordinary dedication Dr. Emberton has demonstrated throughout his career as a medical professional, and applauds his service and commitment to the Edmonton community.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Dr. Lawrence P. Emberton.

There being no objection, **HR 124** was adopted.

Representative Adkins moved that **HB 403** be recommitted to the Committee on Judiciary. Agreed.

Representative McKee moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 168, by Representative McKee: A RESOLUTION saluting the Cynthiana Lions Club on the fiftieth anniversary of it radio auction.

Motions, Petitions, and Communications (Continued)

Representative McKee moved the adoption of the following **HR 168**:

HR 168, A RESOLUTION saluting the Cynthiana Lions Club on the fiftieth anniversary of its radio auction.

WHEREAS, the Cynthiana Lions Club Radio Auction will mark its fiftieth anniversary when it conducts its 2007 radio auction fundraising drive; and

WHEREAS, the Cynthiana Lions Club has used the proceeds from its radio auction to contribute thousands of dollars to eye care for community members in need, from glasses to surgery to a computer and software so that young children who are visually impaired may receive all the benefits of a quality education; and

WHEREAS, the Cynthiana Lions Club has also given thousands of dollars to the Licking Valley Branch of Maysville Community and Technical College, Harrison Memorial Hospital, and many other worthy community programs, from funds raised through its radio auction; and

WHEREAS, for fifty years, the Cynthiana Lions Club Radio Auction has been an integral part of the Cynthiana Lions Club's endeavors to create a better life for all citizens of Cynthiana and Harrison County;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby applauds the Cynthiana Lions Club for the fifty successful years of its radio auction, extends its sincere appreciation for the organization's efforts to improve its community and its Commonwealth, and sends it best wishes for continued fundraising.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Cynthiana Lions Club Radio Auction.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Tom McKee for hand delivery to the Cynthiana Lions Club.

There being no objection, **HR 168** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 169, by Representatives Jenkins, Clark, Weston, Napier, Hoffman, Marzian, Meeks, Glenn, Miller, Siler, Gray, Horlander, Simpson, Wayne, Firkins, Nesler, Nelson, Owens, Yonts, Burch, Stein, Riner, Stacy, and Adkins: A RESOLUTION urging the United States Congress to enact the Employee Free Choice Act.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 467**

Health and Welfare: **HB 126**

Natural Resources and Environment: **HCR 160, HB 521**

Local Government: **HB 526, HCR 155, SB 60, HB 317, 118, 117**

Judiciary: **HB 417, 438, 555, HCR 159**

Seniors, Military Affairs and Public Safety: **SB 22**

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 405**, by Representative Comer:

HB 405, On page 9, after line 7, by inserting:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

Within ten (10) days of certification by the State Board of Elections or the county board of elections as provided in KRS 118.425, the State Board of Elections shall begin conducting an audit of any election in which more than fifteen percent (15%) of the vote was conducted through absentee voting. The audit shall include but is not limited to the eligibility of the voter to vote by absentee ballot. The State Board of Elections shall forward its findings within thirty (30) days to the Attorney General, Commonwealth's Attorney, and appropriate county attorney for further review and potential prosecution of any findings of misconduct or fraud."

Renumber the remaining sections accordingly.

Floor Amendment No. 1 to **HB 93**, by Representative Comer:

HB 93, On page 2, line 27, and continuing to page 3, through line 4, delete the intervening language and insert the following in lieu thereof:

"***(5) (a) Any person who has been convicted of, entered an Alford plea to, or pleaded guilty to cruelty to animals in the second degree shall forfeit ownership of the animal or animals and shall be prohibited from owning or possessing any animal of the same species for a period of two (2) years from the date of the conviction or plea.***

(b) Nothing in this subsection shall apply to livestock or poultry used in the business of agriculture as defined in KRS 246.010.".

Floor Amendment No. 2 to **HB 83**, by Representative Denham:

HB 83, On page 1, line 4, by deleting "***that is a bank or trust company***"; and

On page 1, line 11, by deleting "the "fiduciary" and inserting the following in lieu thereof: "***a***[~~the~~] fiduciary***, including a testamentary trustee,***";

On page 1, line 23, by deleting "***that are banks or trust companies***"; and

On page 1, line 24, by deleting "shall not be" and inserting "***may***[~~shall not~~] be" in lieu thereof.

Floor Amendment No. 1 to **HB 355**, by Representative Simpson:

HB 355, On page 2, line 11, after the words "***other public***" by deleting the words "***and private***".

Floor Amendment No. 1 to the Committee Substitute to **HB 440**, by Representative Rasche:

HB 440, On page 4, after line 12, insert:

Section 2. Whereas, numerous public school districts have experienced many very low attendance days during the current school year due to widespread outbreaks of illness, or natural or environmental disaster, which would adversely affect school funding for next year which is based on average daily attendance, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Floor Amendment No. 2 Title to **HB 440**, by Representative Rasche:

HB 440, Amend the title to read:

"AN ACT relating to school attendance and declaring an emergency.".

Floor Amendment No. 1 to the Committee Substitute to **HB 310**, by Representative Firkins:

HB 310, On page 1, line 10, delete the words, "***average per day per vehicle portion of the***".

On page 2, line 9, delete the words, "***average per day per vehicle portion of the***".

Floor Amendment No. 1 to the Committee Substitute to **HB 543**, by Representative Collins:

HB 543, On page 1, by striking lines 15 through 19 in their entirety.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representatives Wilkey and Thompson

HB 3, Representative Thompson

HB 4, Representative Thompson

HB 16, Representative C. Belcher

HB 23, Representatives Westrom, Marzian, Meeks, B. Smith, Crenshaw, and Owens

HB 70, Representative Simpson

HB 75, Representatives Nelson, Greer, Tilley, Denham, Rollins, and Couch

HB 79, Representative Thompson

HB 94, Representatives S. Lee, Westrom, McKee, and Hoffman

HB 109, Representatives Tilley, Rollins, Owens, Hoffman, S. Lee, Rudy, Westrom, and B. Smith

HB 152, Representative Dedman

HB 210, Representatives Nelson and Graham

HB 214, Representatives Nelson and Hoffman

HB 326, Representative Greer

HB 337, Representative Tilley

HB 373, Representative Westrom

HB 418, Representative Nelson

HB 438, Representative Tilley

HB 465, Representative Kerr

HB 548, Representatives Wayne and Clark

HB 549, Representative Thompson

HJR 5, Representatives Greer, Watkins, Clark, and Weston

HR 167, Representative Stein

Announcements

Committee on Health and Welfare, no meeting upon recess

Committee on Judiciary, 2:00 p.m., Monday, February 26, 2007, Room 154

Committee on Labor and Industry, upon adjournment, Tuesday, February 27, 2007

Budget Review Subcommittee on Transportation, no meeting on Monday, February 26, 2007

Adjournment

Representative Adkins moved to adjourn until the hour of 4:00 p.m. on Monday, February 26, 2007.

The motion that the House adjourn until 4:00 p.m., Monday, February 26, 2007, was adopted by voice vote.

MONDAY, FEBRUARY 26, 2007

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Dr. Don Nunnelly, First Christian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of February 23, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Henderson moved that he be recorded as voting "Yea" on **HB 203**. Agreed.

Representative Wayne moved that he be recorded as voting "Yea" on **HB 152, 107,** and **138**. Agreed.

Representative Spencer moved that he be recorded as voting "Yea" on **HB 266**. Agreed.

Representative Napier moved that he be recorded as voting "Yea" on **HB 337**. Agreed.

Representative Meeks moved that his vote be changed from "Nay" to "Yea" on **HB 373**. Agreed.

Representative Graham moved that he be recorded as voting "Yea" on **HB 373**. Agreed.

Representative Adkins moved that he be recorded as voting "Yea" on **HB 337**. Agreed.

Representative Combs moved that she be recorded as voting "Nay" on **HB 138**. Agreed.

Representative Crenshaw moved that he be recorded as voting "Yea" on **HB 124, 94, 75, 210, 337, 321,** and **448**. Agreed.

Representative Palumbo moved that the rules be suspended to grant floor privileges and to introduce and act on a Resolutions. Agreed.

Introduction of Bills and Resolutions.

HR 170, by Representative Palumbo: A RESOLUTION adjourning the House of Representative in honor of Sanford T. Roach.

Representative Palumbo moved the adoption of the following **HR 170**:

HR 170, A RESOLUTION adjourning the House of Representatives in honor of Sanford T. Roach.

WHEREAS, Sanford Roach, highly respected educator and basketball coach, was born in Frankfort, Kentucky, and graduated from Danville Bate High School in 1933, where he was a basketball and football standout, as well as salutatorian of his class. Four years later, he earned a B.S. in natural sciences from Kentucky State University, where he excelled as captain of the basketball team, a track and field star, editor of the student newspaper, and a member of the student council. In 1955, he received a master's degree in education from the University of Kentucky; and

WHEREAS, upon graduation from college, Mr. Roach returned to his high school to teach and coach basketball. In three years, his team boasted a 98-24 record, and he received great attention in 1941, when he benched his five starting players the day of the district tournament for violating his curfew rule. Shortly thereafter, he was hired as a teacher and coach by the principal of Dunbar High School, where he taught biology, physiology, and anatomy, and by 1943, he became head basketball coach. During his 22 years as head coach, Mr. Roach led Dunbar High to a 512-142 record; and

WHEREAS, in 1965, Mr. Roach suffered a tragic personal loss, with the unexpected death of his first wife, Mary, and he retired from coaching. Between 1965 and 1966, he served as principal of George W. Carver Elementary School, the first black principal of an integrated elementary school in Lexington. Between 1966 and 1975, he worked as an administrator at Lexington Junior High and became the first black principal of a Fayette County secondary school. From 1975 to 1988, he worked as a minority recruiter and principal assistant for the state secretary of transportation, and from 1989 to 1995, he worked for Lexington mayors Scotty Baseler and Pam Miller; and

WHEREAS, Sanford Roach has received numerous awards and honors and, in 1974, he became the first African American board member of the University of Kentucky Athletic Association. In 1991, the new Paul Lawrence Dunbar High School dedicated its S.T. Roach Sports Center in his honor, and he is a member of the National High School Sports Hall of Fame, the Kentucky Athletic Hall of Fame, and the Kentucky State University Athletic Hall of Fame. He married his loving wife, Lettie, in 1967, and has two children, Sandra Cole and Tom Roach, as well as two grandsons, Kent and Ashley;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives declares Monday, February 26, 2007, "Sanford T. Roach Day" and celebrates the outstanding achievements of this fine Kentuckian in education and sports.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Sanford Roach.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Lady from Fayette 76 for presentation to Mr. Sanford Roach on behalf of the members.

There being no objection, **HR 170** was adopted.

Introduction of Bills and Resolutions (Continued)

HR 171, by Representative Arnold: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Beatrice "Bea" Westerfield.

HR 172, by Representatives Clark and Marzian: A RESOLUTION adjourning the House of Representatives in loving memory and honor of our friend and former colleague Joseph P. Blair, Jr.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 2, 1**

Elections, Constitutional Amendments and Intergovernmental Affairs: **SB 14**

Health and Welfare: **SB 26, 69, 179**

Judiciary: **SB 75, 139**

Labor and Industry: **SB 99**

Local Government: **SB 36, 100, 113, 126**

Natural Resources and Environment: **SB 47**

State Government: **SB 59, 76, 79, 85, 144**

Transportation: **SB 83, 155, SJR 93**

House Floor: **HR 169**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 38, 57, 90, 111, 254, 498, 506, 529, SB 68, HB 352**

Judiciary: **HB 110, 528, 564, SB 65, SJR 48**

Report On Enrolled Bills

The Committee on Enrollment reported that **SJR 16** has been examined and found correctly enrolled. Said Resolution was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:45 p.m.)

Calendar

HB 276, 354, 462, 500, and **536** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 140, 198, 243, 245, 281, 306, 357, 387, 461, 287, HJR 84, HB 86, 213, 274, 322, 334, 410, 426, HCR 79, HR 61, HB 316, 359, 378, 402, 459, HCR 126, HB 276, 354, 462, 500, 536, 468,** and **50** have been posted for passage in the Regular Orders of the Day for February 27, 2007.

The Committee on Rules reported that the following Bills have been recommitted:

Judiciary: **HB 342**

Appropriations and Revenue: **HB 460**

Representative Adkins moved to suspend the rules to allow the House to recess. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 185, with Committee Substitute and Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 185**. Agreed.

Representative Moberly moved that **HB 185**, by way of Committee Substitute be passed.

Representative Moberly moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 185**. Agreed.

Representative Moberly moved that **HB 185**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 26, 2007, roll call on **HB 185** - Appendix.)

HB 185, by way of Committee Substitute, as amended, was passed.

Representative Moberly moved the adoption of Committee Amendment No. 1 Title to **HB 185**. Agreed.

Representative Moberly moved that the vote by which **HB 185**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 418, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HB 418**. Agreed.

Representative Graham moved that **HB 418**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 26, 2007, roll call on **HB 418** - Appendix.)

HB 418, by way of Committee Substitute, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 418**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 400 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 400** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 26, 2007, roll call on **HB 400** - Appendix.)

HB 400 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 400** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 177 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HB 177** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 26, 2007, roll call on **HB 177** - Appendix.)

HB 177 was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 177** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on the following: **SB 10, 83,** and **SJR 93**. Agreed.

Representative Arnold moved the adoption of the following **HR 171**:

HR 171, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Beatrice "Bea" Westerfield.

WHEREAS, Beatrice "Bea" Westerfield was born on August 28, 1930, in Daviess County, the daughter of the late James D. and Veronica Stallings Ralph; and

WHEREAS, Mrs. Westerfield was well-known throughout Daviess County and the surrounding area for her love of horses and equine competition. Mrs. Westerfield was the proud owner of Johnny's Saddlery & Western Wear, and when not tending to business often traveled to thoroughbred tracks across the country following the numerous horses in her stable. Mrs. Westerfield also worked for several years at Ellis Park; and

WHEREAS, Mrs. Westerfield also devoted her time to her love of politics and the Democratic Party. She served as Vice President of the Daviess County Democratic Party and was an active member of the Democrat Women's Club for many years. She was essential to the efforts of John F. Kennedy, Lyndon B. Johnson, Wendell Ford, and many others who campaigned in Daviess County. She was recognized as a Kentucky Colonel under several different administrations; and

WHEREAS, Mrs. Westerfield was an active parishioner of St. Peter of Alcantara Church, where she served as President of the Ladies Auxiliary and participated in many other activities; and

WHEREAS, Mrs. Westerfield was, above all, the loving wife of 58 years to John B. Westerfield; the dedicated mother of Laura Edge, Brenda Westerfield, Dawn Westerfield, Stephen Westerfield, and the late Elizabeth Davies; the adoring grandmother of Jason Edge, Jeremy Edge, Jennifer Edge, Jacob Westerfield, Chip Davies, and Jordan Blankenship; and the doting great-grandmother of Alexis Edge, Elizabeth Davies, and Braxton Blankenship; and

WHEREAS, Mrs. Westerfield departed this life on February 22, 2007, and an entire community joins her family and friends in mourning her loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Beatrice "Bea" Westerfield and extends its sincere condolences to her family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Beatrice "Bea" Westerfield.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to John B. Westerfield, 7734 Stanley Birk City Road, Owensboro, Kentucky 42301.

There being no objection, **HR 171** was adopted.

Representative Clark moved the adoption of the following **HR 172**:

HR 172, A RESOLUTION adjourning the House of Representatives in loving memory and honor of our friend and former colleague Joseph P. Blair, Jr.

WHEREAS, Joe Blair departed this earthly life on February 23, 2007, at the age of 63 years, leaving family and friends to mourn his passing. A native of Loretto, Kentucky, Mr. Blair earned his undergraduate degree from Bellarmine College and a law degree and MBA from the University of Louisville; and

WHEREAS, Joe was engaged in private law practice since 1978, and was employed by the Jefferson County Sheriff's office for 15 years. Joe also served his Commonwealth as Chief of Staff for the Speaker Pro Tempore for 10 years, lending his talent, expertise, and good humor to an independent General Assembly. His quick wit and warm smile endeared him to all he met, and his passing leaves our hearts heavy; and

WHEREAS, Joe Blair was a member of the Kentucky Bar Association; was a youth baseball coach for St. Bernard and Fern Creek Babe Ruth; and was also an avid landscaper; and

WHEREAS, Joe Blair is survived by his loving wife of 43 years, Judy A. Sohm Blair; his children, Joseph Blair III, Jeff Blair, Julie McGrail, John Blair, and James Blair; his mother Fannie Mae Blair; sisters, Linda Taylor and Sharon Burress; a brother, Francis Michael Blair; nine grandchildren; and a host of friends;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of Joseph P. Blair, Jr., and extends to his family, friends, and community its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of our friend, Joseph P. Blair, Jr.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Judy Blair, 6613 Hollow Tree Road, Louisville, Kentucky 40228.

There being no objection, **HR 172** was adopted.

Representative Nesler moved the adoption of the following **Legislative Citation No. 49**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of June Wilson Harper and joins with Representative Fred Nesler in expressing deepest sympathy to the Wilson and Harper Families and all who share in the loss of this esteemed citizen, a resident of Mayfield, Kentucky. The daughter of the late Chester and Esther Barker Wilson, and also preceded in death by her son, Brian William Harper; a sister; and, two brothers, she is survived by her husband, George Harper; daughters, Brenda Youngblood and Linda Harper; sisters, Lavern Hunter and Fay Williams; brothers, Joe Ben Wilson, Larry Wilson and Rooney Wilson; thirteen grandchildren; eight great-grandchildren; and, a host of other family members, friends and loved ones. This beloved citizen, an educator who taught at Melber School for one year; a former employee of Curlee Clothing Company; and, a faithful member of Northside Church of Christ, is remembered on this day for the many and generous contributions she made to her family and community. June Wilson Harper will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twenty-sixth day of February, in the year two thousand and seven.

Legislative Citation No. 49 was adopted without objection.

Representative Jenkins moved the adoption of the following **HR 169**:

HR 169, A RESOLUTION urging the United States Congress to enact the Employee Free Choice Act.

WHEREAS, in the National Labor Relations Act of 1935, the United States Congress declared it to be the policy of the United States to encourage the practice of collective bargaining by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection; and

WHEREAS, the freedom to form or join a union is a fundamental human right; and

WHEREAS, unions benefit communities by strengthening tax bases, promoting equal treatment of workers, and enhancing civic participation; and

WHEREAS, even though the nation's workers ostensibly have the freedom to choose whether to organize, in reality they are routinely denied that right; and

WHEREAS, when the right of workers to form a union is violated, wages decline, race and gender pay gaps widen, workplace discrimination increases, and job safety standards lapse; and

WHEREAS, each year, thousands of America's workers are illegally threatened, coerced, or fired for attempting to form a union; and

WHEREAS, most violations of workers' freedom to join a union occur behind closed doors, and each year millions of dollars are spent to frustrate workers' efforts to organize; and

WHEREAS, a worker's fundamental right to join a union is a public issue that requires public policy solutions, including legislative remedies; and

WHEREAS, Federal legislation, the Employee Free Choice Act, has been introduced in the United States Congress in an effort to restore workers' freedom to join unions;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky urges the Congress of the United States to enact the Employee Free Choice Act that would protect and preserve the freedom of America's workers to organize and join unions by authorizing the National Labor Relations Board to certify a union as the bargaining representative when a majority of employees voluntarily sign authorization cards, providing for first contract mediation and arbitration, and establishing meaningful penalties for violations of a worker's right to join a union.

Section 2. The Clerk of the House of Representatives shall transmit copies of this Resolution to the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Kentucky Congressional Delegation.

There being no objection, **HR 169** was adopted.

Representative Floyd moved that Floor Amendment No. 1 to **HB 391** be withdrawn. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 173, by Representative Stein: A RESOLUTION adjourning the House of Representatives in honor of Lawrence T. Smith.

HR 174, by Representative Moore: A RESOLUTION urging the Congress of the United States to unequivocally support the men and women of the Armed Forces in the Global War on Terror.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **SB 23, 105, HB 406, HCR 163**

Transportation: **SB 83, SJR 93, HJR 72**

Report of Committees

The Committee on Health and Welfare reported **HB 383, HJR 137,** and **HJR 144** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 383, AN ACT relating to the diabetes research board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.738 is amended to read as follows:

(1) A proposed research project shall be submitted to the board on an application developed by the Cabinet for Health and Family Services in consultation with the board. The submission deadline for the application shall be ***determined by the board***[~~September 30 of each year~~].

(2) The board shall review the project proposal for scientific merit and adherence to the research priority established in this section. After reviewing the project proposal's scientific merit and adherence to the research priority, the board shall determine whether a project proposal shall or shall not be funded. An applicant shall be notified of the board's decision ***by a date determined by the board***[~~on the application no later than December 31 of each year~~].

(3) A project proposal shall be reviewed for scientific merit as follows:

(a) Adequacy of prior research and theory in providing a basis for the research;

(b) Adequacy of methods;

(c) Adequacy of environment, facilities, equipment, available equipment, and research atmosphere;

(d) Qualifications and productivity of the PI and key staff;

(e) Time commitments of the PI and key staff;

(f) Availability of subjects or patients where relevant;

(g) Adequacy of procedures for assessing the effect of interventions on recovery; and

(h) Other factors that affect the potential of the applicants to successfully address the research objectives.

(4) A project shall be reviewed by the board for adherence to research priorities relating to ***experimental, clinical, or population-based***[~~in vivo and in vitro~~] studies[~~ on naturally occurring phenomena~~] that may:

(a) Prevent or delay the development of diabetic disease;

(b)[~~(a)~~]Predict the development of diabetic vascular, neuronal, or musculo-skeletal complications;

(c)[~~(b)~~]Define the response of diabetic vascular, neuronal, or musculo-skeletal complications to existing therapies;[~~ or~~]

(d)[~~(c)~~]Reverse diabetic vascular, neuronal, or musculo-skeletal complications***; or***

(e) Cure diabetic disease.

HJR 137, A JOINT RESOLUTION directing the Cabinet for Health and Family Services to provide resources and support for the Office of the Ombudsman for the Cabinet to track and report on trends in the receipt, review, and resolution of citizen complaints about child protection programs and services.

WHEREAS, the Office of the Ombudsman is required by KRS 194A.030 to review and resolve citizen complaints about programs and services of the Cabinet for Health and Family Services when those complaints are unable to be resolved through normal channels; and

WHEREAS, the Office of the Ombudsman is required by KRS 194A.030 to provide professional support in the evaluation of programs including quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery; and

WHEREAS, the report titled "the 'other' Kentucky lottery: Child Protection & Permanency for Abused & Neglected Children in Kentucky in 2005," a joint project of the National Institute on Children, Youth & Families, Inc. and Kentucky Youth Advocates, Inc., found that the quality of services provided to neglected and abused children in Kentucky is subject to the vagaries of geography – like where a child might live – and the luck of the draw as to which social workers they are assigned; and

WHEREAS, the January 10, 2007, investigative report prepared by the Office of the Inspector General found that the Office of the Ombudsman is an underutilized resource for ensuring the integrity of the Department for Community Based Services' actions; and

WHEREAS, the Office of the Inspector General report recommended that any complaint justified by the Office of the Ombudsman should result in a written action plan for the resolution of the issue; and

WHEREAS, the Children's Bureau, U.S. Department of Health and Human Services, which administers the Child and Family Services Reviews, believes that one of the most important ways to promote positive outcomes for children and their families is to ensure the quality and frequency of caseworker visits with children and families; and

WHEREAS, as of August 2006, the Department for Community Based Services was working with approximately 19,600 children who were victims of maltreatment, were dependent, or had committed status offenses, and there were 7,431 children in state custody; and

WHEREAS, the total number of complaints related to protection and permanency received by the Office of the Ombudsman increased from 1,330 in 2002 to 3,255 in 2006, an increase of over 40%, and of those contacts, the number of issues found not to conform to cabinet policy increased from 71 in 2002 to 141 in 2006, an increase of over 50%; and

WHEREAS, the total number of contacts related to child protection-related complaints about caseworkers rose from 67 in 2002 to 217 in 2006, an increase of over 30% and of those contacts, the number of issues found not to conform to cabinet policy increased from 2 in 2002 to 6 in 2006; and

WHEREAS, the Office of the Ombudsman has received little increased support in staff or resources to correspond with the increased workload related to child protection and permanency complaints; and

WHEREAS, many states are currently reviewing the authority, duty, and independence of ombudsman offices addressing child welfare issues, including California and Virginia; and

WHEREAS, it is the duty of the General Assembly to ensure the protection of children and the promotion of strong families in the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health and Family Services shall provide the Office of the Ombudsman with resources and support to track and report on trends in the receipt, review, and resolution of citizen complaints about child protection programs and services. The Office of the Ombudsman shall track citizen complaints for each family service worker and supervisor by county and report to the secretary of the cabinet any occurrence of ten or more complaints for a single county within a six month period.

Section 2. The Cabinet for Health and Family Services shall investigate any occurrence of ten or more complaints for a single county within a six month period as reported by the Office of the Ombudsman and report to the Interim Joint Committee on Health and Welfare and the House of Representatives on the number of investigations and the outcome of the investigations for the previous calendar year by January 31 of each year.

HJR 144, A JOINT RESOLUTION directing the Cabinet for Health and Family Services to appoint an autism spectrum disorders (ASD) work group to consider methods of implementing best practices and enhancing the availability of services in light of the recommendations of the "Report of the Kentucky Commission on Autism Spectrum Disorders."

WHEREAS, the Centers for Disease Control and Prevention estimates that 1 in 150 individuals have autism spectrum disorders (ASD) and therefore, based upon the national prevalence, it is estimated that nearly 27,000 individuals with ASD are living in Kentucky; and

WHEREAS, individuals diagnosed with ASD have an extremely diverse range of needs, limitations, and challenges; and

WHEREAS, there is a lack of resources available for individuals with ASD, including adequate funding for critical services, appropriate diagnostic tools for very young children, early intervention systems, crisis intervention, continuum of services through the adult years, and professional training of educators and service providers; and

WHEREAS, the Kentucky Commission on Autism Spectrum Disorders, established by the Kentucky General Assembly in 2005 House Bill 296, was charged with developing and monitoring the implementation of a comprehensive state plan and making recommendations regarding legislation, administrative regulations, and policies to the Governor and the General Assembly; and

WHEREAS, the commission submitted the "Report of the Kentucky Commission on Autism Spectrum Disorders" to Governor Ernie Fletcher and the General Assembly on October 1, 2006, outlining a series of recommendations that provide a comprehensive state plan addressing the needs of individuals with ASD in the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health and Family Services shall take into consideration and discussion the recommendations outlined in the "Report of the Kentucky Commission on Autism Spectrum Disorders" and shall appoint an autism spectrum disorders work group within the cabinet which shall include but not be limited to staff from the Department for Medicaid Services, the Department for Mental Health and Mental Retardation Services, the Department for Aging and Independent Living, and the First Steps Program. The work group shall consider methods of implementing best practices and enhancing the availability and accessibility of services for individuals with autism spectrum disorders. Work group discussions shall include but not limited to exploration of the feasibility of implementing a pilot program in Medicaid. This pilot program may use the flexibility of the Deficit Reduction Act (DRA) to incorporate limited benefits for a specific population within a defined geographic region and shall include but not be limited to the use of the applied behavior analysis (ABA) treatment approach. The work group shall identify sources of funding for its recommendations.

Section 2. The Cabinet for Health and Family Services shall report the findings of the autism spectrum disorders work group to the Interim Joint Committee on Health and Welfare for the review and discussion of proposed legislation that may be necessary to implement recommendations of the work group and the "Report of the Kentucky Commission on Autism Spectrum Disorders."

Floor Amendments

Floor Amendment No. 1 to **HB 398**, by Representative Farmer:

HB 398, On page 1, line 3, bracket and strike through "without regard to fault", and insert in lieu thereof "***if gross negligence is proven***".

Floor Amendment No. 2 to **HB 398**, by Representative Farmer:

HB 398, On page 1, line 23, delete "***because the***"; and

On page 1, lines 23 and 24, remove the brackets and strike through; and

On page 1, line 24, after "employer", insert "***who***".

Floor Amendment No. 1 to the Committee Substitute to **HB 490**, by Representative Yonts:

HB 490, On page 1, line 3, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 1, between lines 15 and 16, by inserting the following:

"***(5) "Disputed amount" means to question in good faith the validity, either in whole or part, of a request for payment asserted by any party;***";

On page 1, line 16, by deleting "***(5)***" and inserting "***(6)***" in lieu thereof;

On page 1, line 17, by deleting "***(6)***" and inserting "***(7)***" in lieu thereof;

On page 1, line 19, by deleting "***(7)***" and inserting "***(8)***" in lieu thereof;

On page 1, line 21, after "***obligations;***", by deleting the "***and***";

On page 1, line 22, by deleting "***(8)***" and inserting "***(9)***" in lieu thereof;

On page 1, line 24, after "***entity***", by deleting the "***.***" and inserting "***; and***" in lieu thereof;

On page 1, between lines 24 and 25, by inserting the following:

"***(10) "Undisputed amount" means a good faith, valid, accurate, timely request for payment which has been submitted to any entity owing money, that the recipient of the request for payment has reviewed and agrees that the money is due and owing.***";

On page 2, line 3, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 2, line 4, after "***and***", by deleting "***Sections 3 and 4***" and inserting "***Section 3***" in lieu thereof;

On page 2, line 17, after "***delays***" by deleting "***that can be shown***";

On page 2, lines 18 through 20, by deleting the lines in their entirety and inserting "***in performing the contract that are, in whole or part, within the control of the contracting entity. Unusually bad weather that cannot be reasonably anticipated, fire, or other act of God shall not automatically entitle the contractor to additional compensation under this paragraph.***";

On page 3, line 10, after "***(30)***", by inserting "***business***";

On page 3, line 12, after "***thirty-first***", by inserting "***business***";

On page 3, line 14, after "***the***", by deleting "***undisputed amount due***" and inserting "***unpaid amount. Twenty-five (25) business days following the submission of a timely, properly completed, undisputed request for payment, the contractor shall notify the contracting entity by certified mail if payment has not been received. The notice shall also include the date on which interest shall begin to accrue***" in lieu thereof;

On page 3, line 23 after "***the***", by deleting "***disputed***" and inserting "***unpaid***" in lieu thereof;

On page 4, line 9, after "***to***", by deleting "***one hundred fifty percent (150%)***" and inserting "***two hundred percent (200%)***" in lieu thereof;

On page 4, line 14, after "***"substantial completion"***", by deleting "***shall be***" and inserting the following:

"***is the point at which, as certified in writing by the contracting entity, a project is at the level of completion in strict compliance with the contract and necessary approval by public regulatory authorities has been given, such that the owner may enjoy beneficial use or occupancy and may use, operate, and maintain the project in all respects, for its intended purpose. Partial use or occupancy shall not necessarily result in the project being deemed substantially complete and shall not be evidence of substantial completion.***";

On page 4, lines 15 and 16, by deleting the lines in their entirety;

On page 4, lines 22 through 27, by deleting the lines in their entirety;

On page 5, lines 1 to 5, by deleting the lines in their entirety;

On page 5, line 6, after "SECTION" by deleting "5" and inserting "4" in lieu thereof;

On page 5, line 8, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 9, after "***party***", by inserting "***if the losing party is deemed to have acted in bad faith***";

On page 5, line 13, after "SECTION" by deleting "6" and inserting "5" in lieu thereof;

On page 5, line 15, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 17, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 19, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 23, after "***has***", by deleting "***thirty (30)***" and inserting "***sixty (60)***" in lieu thereof;

On page 5, line 23, after the second "***a***", by inserting "***mechanic's***";

On page 5, line 24, by deleting the line in its entirety and Inserting the following;

"***as provided in KRS Chapter 376. The filing of this lien shall not preclude the contractor from seeking additional relief. This subsection shall not apply to public construction contracts with lien rights governed under KRS 376.250.***";

On page 5, line 25, after "SECTION" by deleting "7" and inserting "6" in lieu thereof;

On page 5, line 27, after "***to***" the first time it appears, by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, line 2, after "***to***" the first time it appears, by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, line 3, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, line 4, after "***to***" the first time it appears, by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, line 8, after "Section" by deleting "8" and inserting "7" in lieu thereof;

On page 6, by deleting lines 8 through 27 in their entirety;

On page 7, by deleting lines 1 through 4 in their entirety;

On page 7, between lines 4 and 5, by inserting the following: "Section 7. KRS 376.230 is amended to read as follows:

(1) The lien provided for in KRS 376.210 shall be dissolved unless the person who furnishes the labor, materials, or supplies shall, ***whichever is later,*** within sixty (60) days after the last day of the month in which any labor, materials, or supplies were furnished, ***or by the date of substantial completion,*** file in the county clerk's office of each county in which labor, materials, or supplies were furnished, except as hereinafter provided, a statement in writing verified by affidavit of the claimant or his or her authorized agent or attorney, setting forth the amount due for which the lien is claimed, the date on which labor, materials, or supplies were last furnished and the name of the canal, railroad, bridge, public highway, or other public improvement upon which it is claimed.

(2) In all cases where a lien is claimed for labor, materials, or supplies furnished for the improvement of any bridge, public highway, or other public property owned by the state or by any county, charter county, urban-county, consolidated local government, or city, the statement of lien shall be filed only in the county clerk's office of the county in which the seat of government of the owner of the property is located.

(3) The county clerk, upon the filing of the statement, shall make an abstract and entry thereof as now provided by law in case of mechanics' liens in the same book used for that purpose, and shall make proper index thereof. The clerk shall be paid by the party filing the claim, and for attesting any copy of the lien statement. If he or she is required to make the copy, he or she may make an additional charge as provided by law. The clerk's fees shall be determined pursuant to KRS 64.012. All of these charges may be recovered by the lien claimant as costs from the party and out of the fund against which the claim is filed."; and

On page 7, lines 5 through 16, by deleting the lines in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 207**, by Representative Gooch:

HB 207, On page 30, between lines 9 and 10 by inserting the following:

"***(8) Notwithstanding KRS 21A.160 and 21A.300, in the event of a mine disaster which results in miners sustaining serious physical injuries and multiple fatalities, attorneys shall be prohibited from soliciting the injured miners and the survivors of the miners for professional employment for a fee for a period of sixty (60) days after the mine disaster occurred. A solicitation under this subsection shall include contacting the miners or the survivors of the miners in person, by telephone, through another person, or by electronic or other communication device. Nothing in this subsection shall be construed to prohibit solicitations under KRS 21A.320 or to preclude a miner or a survivor of a deceased miner from undertaking an action upon his or her own motion to obtain legal representation for himself or herself or on behalf of the estate of the deceased miner. Any attorney that solicits a miner or survivor within the sixty (60) day period after a mine disaster shall create a rebuttable presumption of an intentional violation of the provisions of this subsection and the penalty shall be the same as in KRS 21A.310. Jurisdiction shall lie in the Circuit Court of the county in which the offense occurred.***".

Floor Amendment No. 1 to **HB 439**, by Representative Vincent:

HB 439, On page 14, lines 12 to 27, by removing lines 12 to 27 in their entirety; and

On page 15, lines 1 to 6, by removing lines 1 to 6 in their entirety, thus removing all of Section 7 from the bill; and

On page 15, line 7, through page 24, line 14, by renumbering the sections accordingly; and

On page 17, lines 25 and 26, by deleting "*a public*" and removing the brackets and strikethrough on the words "another state"; and

On page 17, line 27, by deleting "*public*" and removing the brackets and strikethrough on the words "state"; and

On page 18, lines 2 to 7, by deleting lines 2 to 7 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 437**, by Representative Glenn:

HB 437, On page 3, between lines 25 and 26, by inserting the following new subsection:

"*(6) It shall be unlawful for any person to utilize any information provided in a request not to receive any future unsolicited advertisements for any purpose other than honoring the request.*"; and

On page 4, line 8, after the first "*the*", by inserting "*District or*"; and

On page 4, line 9, after the first "*the*", by inserting "*District or*".

Floor Amendment No. 1 to the Committee Substitute to **HB 187**, by Representative Richards:

HB 187, On age 6 line 4, after the "(7)", by inserting "*(a)*"; and

On page 6, line 6, after "*shall*" by inserting the following: "*be made from the jail budget as provided in subsection (3) of this section and shall*"; and

on page 6, insert the following between lines 14 and 15:

"*(b) A health care provider, including a health care provider participating in telehealth consultations pursuant to KRS 205.559, who receives reimbursement from the Kentucky Medical Assistance Program shall provide health care services to any prisoner confined in a county jail. The provider shall agree to accept the same rate of payment for providing those services as is received from the Kentucky Medical Assistance Program for the same or similar services. Nothing in this section shall require Medicaid to provide reimbursement for health care services provided to a prisoner confined in a county jail.*"; and

On page 11, after line 6, insert the following:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

A health care provider, including a health care provider participating in telehealth consultations pursuant to KRS 205.559, who receives reimbursement from the Kentucky Medical Assistance Program shall provide health care services to any prisoner confined in a county jail. The provider shall agree to accept the same rate of payment for providing those services as is received from the Kentucky Medical Assistance Program for the same or similar services.Nothing in this section shall require Medicaid to provide reimbursement for health care services provided to a prisoner confined in a county jail."

Floor Amendment No. 7 to **HB 64**, by Representative Bratcher:

HB 64, On page 11, following line 12, by inserting

"SECTION 8. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

To help provide a safe and productive learning environment for public school students and all school personnel, no public school student who is taking medication prescribed by a physician to help control assaultive, disruptive, or irrational behavior shall be allowed to attend school during a day or period when the student is not taking the medication as prescribed. Parents shall either administer prescribed medication prior to the student's arrival at school, or shall provide the prescribed medication to designated school personnel to administer to the student at the appropriate time.".

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 362**, by Representative Burch:

HB 362, On page 1, line 4, after "*Sections*" by deleting "*1 to 6 of*" and inserting "*1, 3, and 4 of this Act, and the amendments made to KRS 194A.065 in this Act*" in lieu thereof;

On page 1, line 6, after "*section*" by deleting "*and Section 6 of this Act*" ;

On page 3, line 22, after "Whereas," by deleting "the House of Representatives of";

On page 5, line 1, after "independent" by inserting "non-legislator";

On page 5, line 20 after "seek" by deleting "consultation" and inserting "assistance" in lieu thereof;

On page 6, line 18, after "invited" by deleting "consultants" and inserting "speakers" in lieu thereof;

On page 7, line 10, after "Section 6." by inserting "For the purposes of this section, "front line staff" has the same meaning as in Section 2 of this Act.";

On page 7, between lines 9 and 10, by inserting the following:

"Section 6. The provisions of Section 5 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified in Section 5 of this Act to an interim joint committee or subcommittee thereof, and to designate a study completion date.";

And by renumbering the remaining sections accordingly.

Floor Amendment No. 3 to **HB 398**, by Representative DeCesare:

HB 398, On page 2, line 2, after "*employer*" by inserting "*, employee, agent, or other individual who knew, should have known, or participated in any gross negligence, recklessness, or violation of a safety standards or regulation related to the cause of action*"; and

On page 3, after line 6, by inserting the following new subsection:

"*(7) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, any civil action filed under this section shall be precluded from inclusion of joint and several liability in any tort claim.*".

Floor Amendment No. 1 to **SB 152**, by Representative Damron:

SB 152, On page 1, line 9, after "*Any*" by inserting "*public*"; and

On page 1, line 15, after "*or*" by inserting "*legally*" and after "*children;*" by deleting "*and*"; and

On page 1, by deleting line 16 in its entirety and by inserting in lieu thereof:

"*3. The employee's stepchildren by a legal marriage;*

4. The employee's children for whom legal guardianship has been awarded;

5. Children whom the employee or the employee's spouse has a legal obligation under a divorce decree or other court order to provide for their health care expenses;

6. Qualifying children claimed as dependents on the employee's federal tax return; and

7. Grandparents of the employee or the employee's spouse who are claimed as dependents on the employee's federal tax return as qualifying relatives.".

Floor Amendment No. 2 to **HB 439**, by Representative Vincent:

HB 439, On page 15, lines 7 to 17, by deleting lines 7 to 17 in their entirety, thus deleting all of Section 8 from the bill; and

By renumbering the remaining sections accordingly.

Floor Amendment No. 1 to **HB 280**, by Representative Moore:

HB 280, On page 6, after line 21, by inserting the following:

"Section 2. KRS 525.055 is amended to read as follows:

(1) A person is guilty of disorderly conduct in the first degree when he or she:

(a) In a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof:

1. Engages in fighting or in violent, tumultuous, or threatening behavior;
2. Makes unreasonable noise; or
3. Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose; and

(b) Acts in a way described in paragraph (a) of this subsection within three hundred (300) feet of a:

1. Cemetery during a funeral or burial;
2. Funeral home during the viewing of a deceased person;
3. Funeral procession;
4. Funeral or memorial service; or
5. Building in which a funeral or memorial service is being conducted; and

(c) *Acts in a way described in paragraph (a) of this subsection at any point in time between one (1) hour prior to the commencement of an event specified in paragraph (b) of this subsection and one (1) hour following its conclusion; and*

(d) Knows that he or she is within three hundred (300) feet of an occasion described in paragraph (b) of this subsection.

(2) Disorderly conduct in the first degree is a Class A misdemeanor.

Section 3. KRS 525.155 is amended to read as follows:

(1) A person is guilty of interference with a funeral when***, at any point in time between one (1) hour prior to the commencement of an event specified in paragraph (a) of this subsection and one (1) hour following its conclusion,*** he or she[~~ at any time on any day~~]:

- (a) Blocks, impedes, inhibits, or in any other manner obstructs or interferes with access into or from any building or parking lot of a building in which a funeral, wake, memorial service, or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral, wake, memorial service, or burial is being conducted;
- (b) ***Engages in picketing, demonstrating, or other protest behavior***[~~Congregates, pickets, patrols, demonstrates, or enters~~] on that portion of a public right-of-way[~~ or private property~~] that is within three hundred (300) feet of an event specified in paragraph (a) of this subsection; or
- (c) Without authorization from the family of the deceased or person conducting the service, during a funeral, wake, memorial service, or burial ***and within three hundred (300) feet thereof***:
  - 1. Sings, chants, whistles, shouts, yells, or uses a bullhorn, auto horn, sound amplification equipment, or other sounds or images observable to or within earshot of participants in the funeral, wake, memorial service, or burial; or
  - 2. Distributes literature or any other item.

(2) Interference with a funeral is a Class B misdemeanor.".

Floor Amendment No. 2 Title to **HB 280**, by Representative Moore:

HB 280, By amending the title to read as follows: "AN ACT relating to funerals, burials, and other similar occasions and services.".

Motions, Petitions, and Communications

The following members filed a request to have their name added as primary sponsor of a Bill:

HB 292, Representatives Siler and Tilley

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 185, Representative Comer

HB 230, Representative Koenig

HB 292, Representatives J. Lee and Moberly

HB 296, Representative Kerr

HB 403, Representative Weston

HB 417, Representative Crimm

HB 445, Representatives Wuchner and Koenig

HCR 141, Representative L. Belcher

HJR 72, Representative Spencer

HJR 142, Representative Higdon

The following members filed requests to have their names withdrawn as primary sponsor of a Bill and a Resolution:

HB 292, Representative Moberly

HJR 72, Representative Hall

Announcements

Committee on Health and Welfare, upon recess, Speaker Pro Tem Office

Committee on Majority Caucus, upon recess, Supreme Court Chamber

Committee on Education, 7:57 a.m., Tuesday, February 27, 2007

Committee on Elections, Constitutional Amendments and Intergovernmental Affairs, 8:30 a.m., Tuesday, February 27, 2007, Room 171

Committee on Transportation, Noon, Tuesday, February 27, 2007, Room 149

Committee on Appropriations and Revenue, 10:00 a.m., Tuesday, February 27, 2007

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Tuesday, February 27, 2007.

The motion that the House adjourn until 2:00 p.m., Tuesday, February 27, 2007, was adopted by voice vote.

TUESDAY, FEBRUARY 27, 2007

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Rick Long, The Point Community Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All member was present except Representative Clark.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 26, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Crenshaw moved that he be recorded as voting "Yea" on **HJR 7**. Agreed.

Representative Butler moved that he be recorded as voting "Yea" on **HB 186** and **312**. Agreed.

Senate Message

Announcing passage of **SB 42, 103, 140, 143, 160,** and **174**. (2:01 p.m.)

The House paid tribute to fallen soldiers from Kentucky who had died in military service to our country.

Representative Pullin moved that the rules be suspended to grant floor privileges and to act on Resolutions. Agreed.

The following Resolutions were placed upon their adoption.

Representative Bell called for the following **HR 82**:

HR 82, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist James W. Gardner.

With deepest respect and admiration, we pay homage and tribute to Specialist James W. Gardner, and we pause in silent reverence for his soul.

WHEREAS, James W. Gardner was born July 10, 1983, in Glasgow, Kentucky, and he traversed these earthly bounds April 10, 2006; and

WHEREAS, James W. Gardner was the loving son of James H. and Anne Klapheke Gardner; he was the devoted husband of Lisa Roberts-Gardner; he was the caring brother of Sam and Carly Gardner; he was the loving stepfather of two daughters, Taylor and Brooklyn Roberts; and he leaves behind many other family members; and

WHEREAS, James W. Gardner graduated from Glasgow High School in 2002; and

WHEREAS, Specialist James W. Gardner enlisted in the United States Army in March, 2003; he was assigned to the 1st Battalion, 101st Aviation Regiment, 101st Combat Aviation Brigade (Air Assault) based in Fort Campbell, Kentucky; and he deployed in support of Operation Iraqi Freedom in September, 2005; and

WHEREAS, the life of Specialist James W. Gardner ended prematurely from a noncombat-related cause in Tal Afar, Iraq; and

WHEREAS, Specialist James W. Gardner valiantly served his country with honor and distinction; he was remembered as "a hard worker . . . a sweet person . . . a fine young man . . . hilarious and creative" by his family and friends; he was also remembered as "a dedicated and mannerly student whose goal was to be a member of the Armed Forces" by his former highschool math teacher; he was laid to rest with full military honors; and his awards and decorations include Weapons Qualification (M4, Expert), Army Service Ribbon, Army Commendation Medal, Good Conduct Medal, National Defense Service Ribbon, Iraqi Campaign Medal, and Global War on Terrorism Service Medal; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Specialist James W. Gardner and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Specialist James W. Gardner has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Specialist James W. Gardner and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Specialist James W. Gardner.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Specialist James W. Gardner, Lisa Roberts-Gardner, C/O 127 St. Mary's Court, Glasgow, Kentucky 42141; and to the parents of Specialist James W. Gardner, James H. and Anne Klapheke Gardner, 127 St. Mary's Ct, Glasgow, Kentucky 42141.

Representative Napier called for the following **HR 83**:

HR 83, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First Class Theodore Mitchell ("Coty" or "Cotton") West.

With deepest respect and admiration, we pay homage and tribute to Private First Class Theodore Mitchell ("Coty" or "Cotton") West, and we pause in silent reverence for his soul.

WHEREAS, Private First Class Theodore Mitchell West was born August 4, 1983, in Madison County, Kentucky, and he traversed these earthly bounds November 29, 2006; and

WHEREAS, Theodore Mitchell ("Coty" or "Cotton") West was the loving son of Bill and Mary Ann West and Rene Brandenburg; he was the devoted husband of Jennifer Gregory West; he was the caring brother of Sheri Miller, Dee, Matt, and Ben West; he was the doting grandson of a paternal grandfather, Rufus West, and a maternal grandmother, Jessie Mae Brandenburg; and he also leaves behind and many other family members; and

WHEREAS, Private First Class Theodore Mitchell West graduated from Estill County High School; he worked in his family's energy and construction business and on the family farm before joining the army; and he was passionate about the outdoors, hunting, fishing, and also enjoyed working on and operating equipment, trucks, and cars; and

WHEREAS, Private First Class Theodore Mitchell West enlisted in the United States Army in August 2005; he was assigned to the 2nd Battalion, 5th Cavalry Regiment, 1st Brigade, 1st Cavalry Division, Fort Hood, Texas; and he deployed in support of Operation Iraqi Freedom in November, 2006; and

WHEREAS, the life of Private First Class Theodore Mitchell West ended prematurely of injuries suffered when an improvised explosive device detonated near his vehicle during combat operations in Baghdad, Iraq; and

WHEREAS, Private First Class Theodore Mitchell West gallantly served his country with honor and distinction; he was remembered as "an angel . . . and perfect" by his wife; he was also remembered as "a simple man . . . well-read and possessed a depth of knowledge" by his father; he was laid to rest with full military honors; his awards and decorations include the Global War on Terrorism Service Medal, National Defense Service Medal, and Army Service Ribbon; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Private First Class Theodore Mitchell ("Coty" or "Cotton") West and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Private First Class Theodore Mitchell ("Coty" or "Cotton") West has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Private First Class Theodore Mitchell ("Coty" or "Cotton") West and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Private First Class Theodore Mitchell ("Coty" or "Cotton") West.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Private First Class Theodore Mitchell ("Coty" or "Cotton") West, Jennifer Gregory West, C/O 754 South Dogwood Drive, Berea, Kentucky 40403; the father and stepmother of Private First Class Theodore Mitchell ("Coty" or "Cotton") West, Bill and Mary Ann West, 754 South Dogwood Drive, Berea, Kentucky 40403; and the mother of Private First Class Theodore Mitchell ("Coty" or "Cotton") West, Rene Brandenburg, C/O General Delivery, Winston, Kentucky 40495.

Representative Vincent called for the following **HR 85**:

HR 85, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First Class Scott A. Messer.

With deep respect and admiration, we pay homage and tribute to Private First Class Scott A. Messer, and we pause in silent reverence for his soul.

WHEREAS, Scott A. Messer was born August 18, 1979, in Ashland, Kentucky, and he traversed these earthly bounds February 2, 2006; and

WHEREAS, Scott A. Messer was the loving son of Joyce Johnson and Victor Messer Sr.; he was the stepson of Connie Messer; he was the devoted husband of Jennifer Messer; he was the loving father of two daughters, Hailee and Natalie Messer; he was the caring brother of SueAnn, James, and Victor Messer Jr.; he was the beloved grandson of Juanita Messer; he was the son-in-law of Fred and Angelia Michelson; and he leaves behind many other family members; and

WHEREAS, Scott A. Messer graduated from Paul G. Blazer High School in 1999, where he played football; and

WHEREAS, Private First Class Scott A. Messer enlisted in the United States Army in September, 2004; he was assigned to the Army's 1st Squadron, 32nd Cavalry Regiment, 1st Brigade Combat Team, 101st Airborne Division based in Fort Campbell, Kentucky; and he deployed in support of Operation Iraqi Freedom in September, 2005; and

WHEREAS, the life of Private First Class Scott A. Messer ended prematurely when his Humvee accidentally rolled over during convoy operations in Ashraf, Iraq; and

WHEREAS, Private First Class Scott A. Messer valiantly served his country with honor and distinction; he was remembered as "a brave soldier," "a great father and wonderful husband," and "a confident . . . and easy person to get along with" by his family, and friends; he was also remembered as "an outstanding young man who was very talented" by his former high school football coach; he was laid to rest with full military honors; and his awards include the National Defense Ribbon, the Global War on Terrorism Expeditionary Medal, the Global War on Terrorism Service Medal, and the Army Service Ribbon; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Private First Class Scott A. Messer and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Private First Class Scott A. Messer has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Private First Class Scott A. Messer and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Private First Class Scott A. Messer.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Private First Class Scott A. Messer, Mrs. Jennifer Messer, c/o Mr. Victor Messer, Sr., 113 Brothers Court, Ashland, Kentucky 41101; the mother of Private First Class Scott A. Messer, Ms. Joyce Johnson, 1606 Clemons Drive, Apartment B5, Ashland, Kentucky 41106; and the father of Private First Class Scott A. Messer, Mr. Victor Messer Sr., 113 Brothers Court, Ashland, Kentucky 41101.

Representative Gooch called for the following **HR 89**:

HR 89, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist Robert Jason Settle.

With deepest respect and admiration, we pay homage and tribute to Specialist Robert Jason Settle, and we pause in silent reverence for his soul.

WHEREAS, Robert Jason Settle was born October 20, 1980, in Daviess County, Kentucky, and he traversed these earthly bounds April 19, 2006; and

WHEREAS, Robert Jason Settle was the loving son of Robert Barry Settle and Sharon Settle; he was the loving father of Chloe Settle; he was the caring brother of Aaron Settle; he was the doting grandson of paternal grandparents, Robert and Joyce Settle, and maternal grandparents, Bill and Marilee Staples; he also leaves behind many other family members; and

WHEREAS, Specialist Robert Jason Settle graduated from McLean County High School; and he enjoyed NASCAR, paintball, fishing, hunting, driving 4-wheel and off-road vehicles; and

WHEREAS, Specialist Robert Jason Settle enlisted in the United States Army in 2004; he was assigned to the 1st Battalion, 66th Armored Regiment, 1st Brigade Combat Team, 4th Infantry Division, Fort Hood, Texas; and he deployed in support of Operation Iraqi Freedom in November, 2005; and

WHEREAS, the life of Specialist Robert Jason Settle ended prematurely when an improvised explosive device detonated near his Humvee during combat operations in Taji, Iraq; and

WHEREAS, Specialist Robert Jason Settle gallantly served his country with honor and distinction; he was remembered as "wonderful . . . loved everybody . . . and was happy with life" by his family and friends; he was laid to rest with full military honors; he was posthumously promoted to the rank of Specialist; and his awards and decorations include the Good Conduct Medal, Combat Infantry Badge, Purple Heart, Bronze Star, Global War on Terrorism Expeditionary Medal, Iraq Campaign Medal, and Global War on Terrorism Service Medal; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Specialist Robert Jason Settle and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Specialist Robert Jason Settle has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Specialist Robert Jason Settle and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Specialist Robert Jason Settle.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the mother of Specialist Robert Jason Settle, Sharon Settle, 9412 Kelly Cemetery Rd, Maceo, Kentucky 42355; the father of Specialist Robert Jason Settle, Robert Barry Settle, 4453 State Route 140 W, Utica, Kentucky 42376-9602.

Representative DeCesare called for the following **HR 93**:

HR 93, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Santiago M. Halsel.

With deepest respect and admiration, we pay homage and tribute to Staff Sergeant Santiago M. Halsel, and we pause in silent reverence for his soul.

WHEREAS, Staff Sergeant Santiago M. Halsel was born April 26, 1974, in Bowling Green, Kentucky and traversed these earthly bounds May 16, 2006; and

WHEREAS, Santiago M. Halsel was the loving son of Vesdon Brooks and the late Mary Kathleen Halsel; he was the devoted husband of Susan Smith Halsel; he was the loving father of Donovan Halsel, Lashae Halsel, and Sydney Covington; he was the caring brother of two siblings, Shurrea Brooks Donley and Tauricus Halsel; he was the loving brother of a stepsister, Tyanne Brooks, and two stepbrothers, Justin Halcomb and Brian Brooks; and he leaves behind many other family members and friends; and

WHEREAS, Staff Sergeant Santiago M. Halsel graduated from Warren East High School in Bowling Green, Kentucky in 1993; and

WHEREAS, Staff Sergeant Santiago M. Halsel enlisted in the United States Army in November 1996; and he was assigned to the 2nd Battalion, 502nd Infantry Regiment, 2nd Brigade Combat Team, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky; and

WHEREAS, Staff Sergeant Santiago M. Halsel was serving his second operational deployment in support of Operation Iraqi Freedom; and

WHEREAS, the life of Staff Sergeant Santiago M. Halsel ended prematurely when an improvised explosive device detonated while he was conducting a dismounted clearance mission during combat operations in Baghdad, Iraq; and

WHEREAS, Staff Sergeant Santiago M. Halsel valiantly served his country with honor and distinction; and he was remembered as a "loving and caring person...who always had a smile on his face" by his family and friends; and

WHEREAS, Staff Sergeant Santiago M. Halsel was laid to rest with full military honors; his awards and decorations include the Bronze Star, Purple Heart, Weapons Qualification (M4, Expert), Army Achievement Medal, Army Good Conduct Medal, National Defense Service Medal, Army Service Ribbon, Army Superior Unit Award, Global War on Terrorism Service Medal, Iraqi Campaign Medal, Combat Infantry Badge, and Driver and Mechanic Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Staff Sergeant Santiago M. Halsel and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Staff Sergeant Santiago M. Halsel has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Staff

Sergeant Santiago M. Halsel and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Staff Sergeant Santiago M. Halsel.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Staff Sergeant Santiago M. Halsel, Ms. Susan Halsel, 236 NorthRidge Road, Bowling Green, Kentucky 42101 and to the father of Staff Sergeant Santiago M. Halsel, Mr. Vesdon Brooks, 211 12th Street, Apt. 23, Lexington, Kentucky 40505.

Representative Crenshaw called for the following **HR 103**:

HR 103, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Robert William Ehney.

With deepest respect and admiration, we pay homage and tribute to Sergeant Robert William Ehney, and we pause in silent reverence for his soul.

WHEREAS, Robert William Ehney was born July 24, 1979, in Memphis, Tennessee, and he traversed these earthly bounds April 23, 2006; and

WHEREAS, Robert William Ehney was the loving son of William Harold "Harry" and Mary Beth Reams Ehney; he was the caring father of William Jacob Ehney; he was the caring brother of Casey Ehney; he was the doting grandson of a paternal grandmother, Bobbie Holst, and a maternal grandfather, Nicholas Reams; he was the loving fiancée of Amanda Applegate; and he leaves behind many other family members; and

WHEREAS, Sergeant Robert William Ehney attended Eagle Crest High School in Centennial, Colorado; and he loved playing with his four-year-old son, riding motorcycles, target shooting, and playing golf; and

WHEREAS, Sergeant Robert William Ehney enlisted in the United States Army in 2002; he was assigned to the Army's 7th Squadron, 10th Cavalry Regiment, 1st Brigade Combat Team, 4th Infantry Division, Fort Hood, Texas; and he deployed for a second tour of duty in support of Operation Iraqi Freedom in December, 2005; and

WHEREAS, the life of Sergeant Robert William Ehney ended prematurely of injuries sustained from an improvised explosive device detonated near his Humvee during combat operations in Taji, Iraq; and

WHEREAS, Sergeant Robert William Ehney valiantly served his country with honor and distinction; he was remembered as "a good soldier . . . a good father . . . a good son . . . a good brother" by his family and friends; he was also remembered as "a caring person, especially for the soldiers he led"; he was laid to rest with full military honors; and his awards and decorations include the Bronze Star, Purple Heart, Army Commendation Medal, Army Achievement Medal, Army Good Conduct Medal, National Defense Medal, Iraqi Campaign Medal, Global War on Terrorism Service Medal, Army Service Ribbon, Non-Commissioned Officer Professional Development Ribbon, Overseas Service Ribbon, Combat Action Badge, and Marksmanship Badge-Expert Ranking; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant Robert William Ehney and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Sergeant Robert William Ehney has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant Robert William Ehney and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant Robert William Ehney.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Sergeant Robert William Ehney, William Harold "Harry" and Mary Beth Reams Ehney, 444 Skyview Drive, Lexington, Kentucky 40511; and to the fiancée of Sergeant Robert William Ehney, Amanda Applegate, C/O William Harold "Harry" and Mary Beth Reams Ehney, 444 Skyview Drive, Lexington, Kentucky 40511.

Representative Weston called for the following **HR 106**:

HR 106, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Captain Clayton L. Adamkavicius.

With deepest respect and admiration, we pay homage and tribute to Captain Clayton L. Adamkavicius, and we pause in silent reverence for his soul.

WHEREAS, Captain Clayton L. Adamkavicius was born April 6, 1963, in Dayton, Ohio, and he traversed these earthly bounds April 21, 2006; and

WHEREAS, Clayton L. Adamkavicius was the loving son of Edmond and Huong Nguyen Adamkavicius; he was the devoted husband of Bonnie Adamkavicius; he was the loving father of a daughter, Amanda Marie Adamkavicius, and a stepdaughter, Amanda Rae Baxter; he was the caring brother of four siblings, Craig, Clint, Celia, and Cindy Adamkavicius; he was the doting grandson of a grandmother, Louise Adamkavicius; and he leaves behind many other family members who loved him dearly; and

WHEREAS, Captain Clayton L. Adamkavicius attended Poly High School and Riverside Community College in Riverside, California; and

WHEREAS, Captain Clayton L. Adamkavicius enlisted in the United States Army National Guard in 1986; he was assigned to the Army National Guard's 149th Brigade, 35th Infantry Division, Louisville, Kentucky; he was on his third operational deployment with the Kentucky Army National Guard; he previously deployed to Eastern Europe in support of Operation Joint Forge in 2003; he served a second tour of duty in Eastern Europe in 2004; and he was deployed in support of Operation Enduring Freedom in May, 2005; and

WHEREAS, the life of Captain Clayton L. Adamkavicius ended prematurely when he came under enemy small-arms fire during combat operations in Abu Ghurayb, Afghanistan on April 21, 2006; and

WHEREAS, Captain Clayton L. Adamkavicius valiantly served his country with honor and distinction; he was remembered as "always friendly with everybody . . . a fantastic neighbor" by his family and friends; he loved fishing, hunting, and riding four-wheelers; he was laid to rest with full military honors; and his awards and decorations include the Bronze Star Medal, Purple Heart, and Kentucky Distinguished Service Medal; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Captain Clayton L. Adamkavicius and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Afghan people; and

WHEREAS, the passing of Captain Clayton L. Adamkavicius has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Captain Clayton L. Adamkavicius and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Captain Clayton L. Adamkavicius.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Captain Clayton L. Adamkavicius, Mrs. Bonnie Adamkavicius, 10003 Keys Ferry Rd, Fairdale, Kentucky 40118-9444; and to the parents of Captain Clayton L. Adamkavicius, Edmond and Huong Nguyen Adamkavicius, 3744 Mountain View Ave, Pasedena, California 91107.

Representative Cherry moved that **HR 82, 83, 85, 89, 93, 103,** and **106** be adopted. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Health and Welfare: **SB 98, 104, 112, 118, 138**

Judiciary: **SB 31, 95**

Licensing and Occupations: **SB 156**

Local Government: **SB 96, 145**

Natural Resources and Environment: **SB 125, 187**

Seniors, Military Affairs and Public Safety: **HR 174**

House Floor: **HR 173**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **SB 26**

Report of Committees

The Committee on Local Government reported **HB 117, HB 307, HB 397, HB 444, HB 446, HB 472, HB 496, HB 526, HCR 155,** and **SB 60,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 117, AN ACT relating to human remains and burial objects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6, 7, and 8 of this Act, unless the context requires otherwise:

(1) "Archaeological site" means any place where artifacts that are valuable for the scientific study of historic or prehistoric human life and activities may be found, including but not limited to historic and prehistoric structures, ruins, pictographs and petroglyphs, mounds, burial grounds, forts, mines, farmsteads, quarries, house sites, and industrial or commercial sites;

(2) "Archaeological survey" means a systematic examination of the ground performed under the technical supervision of an archaeologist for the purpose of identifying, recording, and reporting archaeological sites;

(3) "Archaeologist" means an individual who has a graduate degree in anthropology and at least one (1) year of full-time postgraduate experience in archaeological research, at least four (4) months of supervised field and analytic experience in general North American archaeology, and a demonstrated ability to complete research;

(4) "Artifact" means any material more than one hundred (100) years old that is made, modified, or shaped by human workmanship;

(5) "Burial ground" means a tract of land in which human remains are buried, exclusive of clandestine or criminal activities, including land that is historically, actually, or incidentally associated to the burial of human remains;

(6) "Burial object" means any item intentionally placed in a burial ground at or near the time of burial;

(7) (a) "Cemetery" means a place used or to be used for human burials, including but not limited to one (1) or a combination of more than one (1) of the following:

1. A burial park for interment;

2. A mausoleum for entombment;

3. A columbarium for inurnment;

4. A burial ground consisting of one (1) or more marked graves; and

5. A burial mound or other burial facility.

(b) "Cemetery" does not mean an individual urn or other container used for human ashes that have been lawfully cremated, unless the urn or container has been interred. The fact that any tract of land has been set apart for burial purposes shall be evidence that such grounds were set aside for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes;

(8) "Commission" means the Kentucky Native American Heritage Commission as referenced by KRS 2.230;

(9) "Council" means the Kentucky Heritage Council of the State Historic Preservation Office;

(10) "Descendant" means a documented lineal or collateral blood relative of the deceased or, in the case of a Native American, a tribal government having archaeological, historical, or other residence in the Commonwealth if no documented lineal or collateral blood relatives exist or can be identified in a reasonable time;

(11) "Excavation" means digging below the surface disturbed by plowing or digging in a rock shelter, cave, or burial mound by hand or with mechanical equipment for the purpose of recovering artifacts, human remains, or burial objects;

(12) "Historic" means peoples and cultures who are known through contemporaneous written documents in their own or other languages, and as applied to archaeological sites and artifacts, any site or artifact that is at least one hundred (100) years old;

(13) (a) "Human remains" means bodies, portions of bodies, or skeletal or dental materials that are exclusively associated with an archaeological site or with a cemetery.

(b) "Human remains" does not mean any bodies, parts of bodies, or skeletal or dental materials that are within the purview of the Office of the State Medical Examiner, the coroner, a state medical school, or a licensed physician;

(14) "Plan" means an archaeological plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about past life and culture;

(15) "Prehistoric" means people and cultures who are unknown through contemporaneous written documents in any language;

(16) "State tribal group" means any group or community of Native Americans recognized by the Commonwealth;

(17) "Surface collecting" means walking fields, stream banks, or other locations to look for and collect artifacts that are lying on the surface of the ground, that are partially exposed on the surface of the ground, or that have been disturbed by agricultural plowing or natural processes of erosion; and

(18) "Tribal government" means any tribe, band, or nation of Native Americans recognized by the United States government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Except for any lawful investigatory purpose authorized by law, no person shall conduct an excavation of an archaeological site on private property without obtaining a permit issued by the council. A person desiring to conduct an excavation of an archaeological site on private property shall apply for a permit by filing a written plan with the council for its approval.

(2) The council shall issue a permit to excavate at the archaeological site if the council determines that the plan will:

(a) Be done in a manner consistent with professional archaeological practice; and

(b) Be conducted under the supervision of a professional archaeologist.

(3) The council may place reasonable restrictions upon any activities undertaken under the permit. The restrictions shall be in writing and shall be presented to the person making application at the time the permit is issued.

(4) An application for a permit shall be approved or denied within thirty (30) days of the council's receipt of the application. The council shall provide a written explanation to any person whose application for a permit is denied.

(5) All activity conducted on the site shall conform to the permit and any restrictions placed thereon. Any modifications to the plan shall be submitted in writing for the council's approval, and a copy of the permit shall be maintained on the site during the course of the excavation.

(6) A person aggrieved by a decision of the council may appeal the decision to the Circuit Court of the county in which the archaeological site is located. The council shall be a necessary party to any appeal.

(7) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense. In addition to any other penalty imposed, all tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects, shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating subsection (1) of this section shall reimburse the landowner for the cost of restoring and repairing any damage done to the land or to the site.

(8) This section shall not apply to:

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350;

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f and its implementing regulations, 36 C.F.R. Part 800, as amended; and

(c) Surface collecting and archaeological surveys.

(9) The council shall promulgate administrative regulations establishing a process by which applications shall be made and considered under subsections (1) to (5) of this section. The regulations at a minimum shall address:

(a) The conditions by which a plan shall be deemed consistent with professional archaeological practice;

(b) The conditions to be met to satisfy the supervision requirement set out in paragraph (2)(b) of this section; and

(c) The circumstances warranting the imposition of reasonable restrictions under subsection (3) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Descendants and family members of deceased persons buried in cemeteries or graves located on privately owned lands in the Commonwealth shall have a right of ingress to and egress from the location of the burial. This right is conditioned upon the following:

(a) Reasonable notice of no less than three (3) days shall be given by the descendants and family members to the owner and the occupant, if different, of their intention to access the land where the deceased person is buried;

(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of those graves or burial sites;

(c) Access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

(d) The access route shall be designated by the landowner or limited to an obvious access route that is visible from view of the property. The owner shall not be required to create a road for access;

(e) The time and manner of access shall be reasonable and designated in writing signed by the descendants or

family members and the landowner. Access shall include nonvehicular access;

(f) No state administrative regulation or county ordinance shall require paving, graveling, or fencing off of an access route to a cemetery or grave. Maintenance of access routes shall be agreed upon by the landowner and the descendants and shall not place an undue financial burden on the landowner. Any new road for access completed after a negotiated agreement with the landowner shall be at the expense of the descendants;

(g) Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, cemetery, or grave sites, and shall be liable to the owner of the private lands for any damage caused as a result of their access; and

(h) Nothing shall require the landowner to build any fences or supply gates, but if the descendants negotiate for an access route, any fencing, road creation, or maintenance shall be at the expense of the descendants. The access route shall not interfere with the landowner's operation.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth that is recognized by the General Assembly in subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative, nor shall it alter any easements, licenses, privileges, or other dedications which grant the right to visit the grave sites of deceased relatives and are in existence on the effective date of this Act.

(3) Any person denied reasonable access under the provisions of subsection (1) of this section may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave is located, or his or her agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (1) of this section. In granting any relief, the court may set the frequency of access, hours, and duration of the access.

(4) A landowner who violates the provisions of this section shall be guilty of a Class B misdemeanor.

(5) Human remains found on the surface or unearthed in an unauthorized excavation of a cemetery or a known or unknown burial ground shall escheat to and become the responsibility of the state unless the remains are claimed by the descendants or family members of the person buried or the rights to the remains are waived by the descendants or family members of the person buried. Human remains that are the property of the state shall be reinterred in their total parts, except for autopsy samples, in suitable and designated burial sites under state control and maintenance within three (3) years of being found. If more than twenty-five (25) separate human bodies or parts thereof are located in a single site, the bodies shall be reinterred within five (5) years from the date of the exhumation. If the human remains are found to be of Native American origin, representatives of tribal governments as established in federal law or state tribal groups as established in state law shall conduct the reinterment upon the descendants' or family members' request and approval by the commission.

(6) This section shall not apply to:

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350; and

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f, and its implementing regulations, 36 C.F.R. Part 800, as amended.

SECTION 4. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) A person encountering or accidentally disturbing or disinterring human remains shall comply with the provisions of KRS 72.020 and 213.076.

(2) The coroner shall notify the council if he or she, the state medical examiner, and local law enforcement personnel have no forensic or criminal concerns about the human remains at the site.

(3) If the human remains reported to the council are associated with a cemetery that has been disturbed by accident, maintaining the cemetery's integrity shall be the responsibility of the landowner and shall be subject to the conditions set out in subsection (1) of Section 3 of this Act. The council shall advise the landowner of the steps to be taken to stabilize, repair, and document the disturbance to the cemetery. If relocation of the cemetery is necessary, the landowner shall comply with the relocation procedures specified in KRS 381.755.

(4) If human remains are found on the surface or unearthed in an unauthorized excavation of a cemetery or burial ground, they shall become the property of the state and shall be treated in accordance with subsection (5) of Section 3 of this Act unless:

(a) They are claimed by any lawful descendants or family member of the person buried; or

(b) The rights to the remains are waived by the descendants or family members of the person buried.

SECTION 5. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Any person or institution wishing to possess human remains or burial objects, other than human remains lawfully cremated, shall apply for and obtain a permit from the Office of Vital Statistics. The permit provided under this subsection shall not be issued until after the Office of Vital Statistics has consulted with the state medical examiner and

the council.

(2) The Office of Vital Statistics shall issue a permit to the applicant only if the office and the state medical examiner determine that the human remains or burial objects are to be possessed for teaching, medical, scientific, or educational purposes.

(3) The Office of Vital Statistics shall approve or deny the issuance of a permit within thirty (30) days of receiving the applicant's request. If the applicant is denied a permit, the office shall provide the applicant with a written explanation for the denial.

(4) Any person who is aggrieved by the Office of Vital Statistic's denial of a permit may appeal to the Circuit Court of the county in which the human remains or burial objects are located. The office shall be a necessary party to any appeal.

(5) A permit issued under this section shall name the person or institution authorized to possess the human remains or burial objects and the manner by which the human remains or burial objects shall be disposed of following their use.

(6) (a) The knowing possession, utilization, or disposition of human remains or burial objects without a permit or other lawful authority or in a manner contrary to a permit issued under this section shall be a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(b) All human remains or burial objects possessed or used in violation of this section shall be seized, shall become the property of the state, and shall be treated in accordance with subsection (5) of Section 3 of this Act, unless:

1. They are claimed by any lawful descendants or family member of the person buried; or

2. The rights to the remains or objects are waived by the descendants or family members of the person buried.

(7) In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of items forfeited shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and burial objects.

(8) This section shall not apply to human remains or burial objects acquired prior to the effective date of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Except for any lawful investigatory purpose authorized by law, no exhumation of human remains or burial objects may be conducted except with a permit issued by the Office of Vital Statistics.

(2) Exhumation of human remains or burial objects without a permit is a Class D felony. Upon arrest under this subsection, all human remains and burial objects shall be treated in accordance with subsection (5) of Section 3 of this Act.

(3) In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.

Section 7. KRS 525.105 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, ***the person knowingly disturbs***~~[he intentionally excavates]~~ or disinters human remains ***or burial objects***~~[for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains]~~.

(2) Desecration of venerated objects in the first degree is a Class C felony. ***Upon arrest for the desecration of venerated objects, all human remains and burial objects shall be seized and, upon the defendant's conviction, shall become the property of the Commonwealth, unless the human remains and burial objects are claimed by the lawful descendants or family members of the person buried or the rights in the human remains are waived by the descendants or family members of the person buried. Human remains and burial objects that are the property of the state shall be treated in accordance with subsection (5) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disturbance or disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.***

Section 8. KRS 525.120 is amended to read as follows:

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities ***or exhibits, alters, or discards human remains. A corpse or human remains***

treated in a manner in violation of this subsection shall be seized and shall become the responsibility of the Commonwealth if the lawful descendants of the corpse are not found or if the lawful descendants waive their rights to the corpse. A person found guilty of abusing a corpse shall be ordered to reimburse the Commonwealth for the cost of properly disposing of the corpse or human remains.

(2) A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.

(3)[~~(2)~~] Abuse of a corpse is a[~~ Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a~~] Class D felony.

HB 307, AN ACT relating to occupational license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.795 is amended to read as follows:

(1) The provisions of KRS 67.750 to 67.790 shall apply on and after July 15, 2008, to all tax districts that levy an occupational license fee or a tax on net profits or gross receipts, except that the provisions of KRS 67.750 to 67.790 shall not apply to the utilities gross receipts tax levied by school districts pursuant to KRS 160.613 and 160.614.

(2) A tax district may apply the provisions of KRS 67.750 to 67.790 to the levy of an occupational license fee or a tax on net profits or gross receipts, except the utilities gross receipts tax levied by school districts pursuant to KRS 160.613 and 160.614, by adoption of an ordinance prior to July 15, 2008.

(3) Any amendment made to an existing ordinance or resolution imposing an occupational license fee or tax:

(a) That is made to comply with the provisions of KRS 67.750 to 67.790; and

(b) That does not change the tax rate contained in the existing ordinance or resolution, except as permitted by KRS 67.793;

shall not be considered to be the imposition of a new fee or tax, or to be an increase in a fee or tax for purposes of the application of the provisions of KRS 68.197(7) or 68.199(3), even if the amendment results in increased revenues for the taxing district.

Section 2. KRS 67.793 is amended to read as follows:

Notwithstanding the maximum tax rates in KRS 68.180, 68.197, and 91.200, a tax district which levies a tax on net profits may levy a tax rate that would generate approximately the same amount of revenues as the prior year plus normal revenue growth experienced by the tax district over the prior five (5) years. A tax district may invoke the provisions of this section only once.

(2) Any county that imposes a rate increase under this section that includes a city that levies a tax that is subject to the offset required by KRS 68.197(7) or 68.199(3) shall continue to allow an offset against the new county fee in the same proportion that the city fee was offset against the county fee prior to the county fee increase.

HB 397, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.185 is amended to read as follows:

(1) Coroners shall receive out of the county***, consolidated local government, charter county government,***[~~ or~~] urban-county ***government, or unified local government*** treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$ 200
(b)	10,001 to 20,000	300
(c)	20,001 to 40,000	350
(d)	40,001 to 60,000	400
(e)	60,001 to 100,000	450
(f)	100,001 to 150,000	800
(g)	150,001 or more	1,000

Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice Cabinet, and the Division of Kentucky State Medical Examiners Office, Justice Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of the training:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$ 400
(b)	10,001 to 20,000	500
(c)	20,001 to 40,000	650
(d)	40,001 to 60,000	750
(e)	60,001 to 100,000	850
(f)	100,001 to 150,000	1,100
(g)	150,001 or more	1,300

(2) Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county***, consolidated local government, charter county government,***[~~ or~~] urban-county ***government, or unified local government*** treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$200
(b)	10,001 to 20,000	250
(c)	20,001 to 40,000	275
(d)	40,001 to 60,000	300
(e)	60,001 to 100,000	400
(f)	100,001 to 150,000	900
(g)	150,001 or more	1,100

(3) The fiscal court of any county, ***consolidated local government,***[~~urban-county, or~~] charter county government, ***urban-county government, or unified local government*** may compensate coroners and deputy coroners an additional amount of up to three hundred dollars ($300) per month as an expense allowance.

(4) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the Justice Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.

(5) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.

(6) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to ***the approval of the legislative body of the county, consolidated local government, charter county government, urban-county government, or unified local government***[~~ fiscal court approval~~], appoint ***additional***[~~two (2)~~] deputy coroners, regardless of population.

HB 444, AN ACT relating to planning and zoning in counties containing a city of the first class or consolidated local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.401 is amended to read as follows:

It is the intent of KRS 100.401 to 100.419 to strengthen the enforcement of binding elements which have been approved as part of a land use development plan in a county containing a city of the first class or consolidated local government***, as well as other land use provisions in that county***. This is intended to be done by extending to a planning commission in counties containing a city of the first class or consolidated local government the authority to issue remedial orders and impose civil fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with approved land use plans as they apply to binding element agreements ***and land use provisions***. KRS 100.401 to 100.419 is intended and shall be construed to provide an additional or supplemental means of obtaining compliance with local zoning ordinances and nothing contained in KRS 100.401 to 100.419 shall prohibit the enforcement of local zoning ordinances by any other means authorized by law.

Section 2. KRS 100.403 is amended to read as follows:

As used in KRS 100.401 to 100.419, unless the context otherwise requires:

(1) "Land use enforcement officer" in a county containing a city of the first class or consolidated local government means an officer authorized by a planning commission to enforce binding elements.

(2) "Land use ordinance" in a county containing a city of the first class or consolidated local government means an official

action of a local government body which is a regulation of a general and permanent nature relating to the use and development of land within the jurisdictional boundary of the planning commission. It is enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance.

(3) "Local government" means a county containing a city of the first class or consolidated local government and all cities of the first through fourth classes within the county.

(4) "Binding element" in a county containing a city of the first class or consolidated local government means a binding requirement, provision, restriction, or condition imposed by a planning commission or its designee, or a promise or agreement made by an applicant in writing in connection with the approval of a land use development plan or subdivision plan.

(5) "Land use provision" in a county containing a city of the first class or consolidated local government means any provision of the regulatory authority granted to local governments and their respective planning units involving:

(a) Zoning regulations;

(b) Agreements between the planning unit and landowners or other persons dealing with conditional use permits;

(c) Agreements between the planning unit and landowners or other persons dealing with variances;

(d) Acknowledgments by the planning unit as to the legal scope and area of a nonconforming use; or

(e) Agreements between the planning unit and landowners or other persons dealing with land use restrictions.

Section 3. KRS 100.405 is amended to read as follows:

(1) The planning commission ***or board of zoning adjustment*** in counties containing a city of the first class or a consolidated local government may issue remedial orders and impose civil fines as a method of enforcing a binding element ***or land use provision*** when a violation of that binding element ***or land use provision*** has been classified as a civil offense in accordance with this section.

(2) Subject to the limitations set forth in subsections (1) and (3) of this section, if a local government elects to enforce a binding element ***or land use provision*** as a civil offense, it shall do so by ordinance, which shall provide:

(a) That a violation of the binding element ***or land use provision*** is a civil offense; and

(b) A maximum civil fine that may be imposed for each violation of a binding element ***or land use provision***.

(3) No local government shall classify the violation of a binding element ***or land use provision*** as a civil offense if the violation would also constitute an offense under any provision of the Kentucky Revised Statutes, including specifically and without limitation any provision of the Kentucky Penal Code and any moving motor vehicle offense.

Section 4. KRS 100.407 is amended to read as follows:

(1) Each planning commission which is given the authority by the local government to enforce binding elements ***and land use provisions*** shall have the power to:

(a)[~~(1)~~] Adopt rules and regulations to govern its operation and the conduct of its hearings***, or the operation and conduct of the board of zoning adjustment's hearings if the board of zoning adjustment is designated by the local legislative body to hear citation contests,*** that are consistent with the requirements of KRS 100.401 to 100.419.

(b)[~~(2)~~] Conduct hearings to determine whether there has been a violation of a binding element ***or land use provision. The local legislative body having authority over the planning commission may designate the board of zoning adjustment to conduct hearings to determine whether there has been a violation of a binding element or land use provision.***

(2) In order to conduct the hearings as described in this section, a planning commission, or a board of zoning adjustment which has been given the authority to conduct hearings by the local legislative body having authority over the planning commission, shall have the power to:

(a)[~~(3)~~] Subpoena alleged violators, witnesses, and evidence to its hearings. Subpoenas issued by the planning commission ***or board of zoning adjustment*** may be served by any land use enforcement officer.

(b)[~~(4)~~] Take testimony under oath. The chairman of the planning commission ***or board of zoning adjustment*** may administer oaths to witnesses prior to their testimony before the planning commission ***or board of zoning adjustment*** on any matter.

(c)[~~(5)~~]Make findings and issue orders that are necessary to remedy any violation of a binding element ***or land use provision***.

(d)[~~(6)~~] Impose civil fines as authorized in the ordinance on any person found to have violated any binding element ***or land use provision*** that the planning commission ***or board of zoning adjustment*** is authorized to enforce.

Section 5. KRS 100.409 is amended to read as follows:

(1) When a land use enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a violation of a binding element ***or land use provision*** has occurred, the officer may issue a warning notice and

citation to the offender. Prior to issuing a citation, the officer shall issue a warning notice giving the offender a specified period of time in which to remedy the violation. If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the land use enforcement officer may issue a citation. However, if the violation is deemed by the land use enforcement officer to be a threat to public safety, then a citation shall be immediately issued without a prior warning notice.

(2) Enforcement proceedings shall be initiated by the issuance of a citation by a land use enforcement officer.

(3) The citation issued by the land use enforcement officer shall be in a form prescribed by the planning commission and shall contain, in addition to any other information required by the planning commission:

  (a) The date and time of issuance;
  (b) The name and address of the person to whom the citation is issued;
  (c) The date and time the violation of the binding element ***or land use provision*** was committed;
  (d) The facts constituting the violation of the binding element ***or land use provision***;
  (e) A specific description of the binding element ***or land use provision*** violated;
  (f) The name of the land use enforcement officer;
  (g) The civil fine that will be imposed for the violation if the person does not contest the citation;
  (h) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
  (i) A statement that if the person fails to pay the civil fine set forth in the citation or to contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the planning commission ***or board of zoning adjustment*** to contest the citation, and that the determination that a violation was committed shall be final.

(4) After issuing a citation to an alleged violator, the land use enforcement officer shall notify the planning commission ***or board of zoning adjustment*** by delivering the citation to the administrative official designated by the planning commission.

(5) All citations issued shall be hand delivered to the alleged violator.

(6) When a citation is issued, the person to whom the citation is issued shall respond to the citation within fourteen (14) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the planning commission ***or board of zoning adjustment*** to contest the citation. If the person fails to respond to the citation within fourteen (14) days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the planning commission ***or board of zoning adjustment*** shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

Section 6. KRS 100.411 is amended to read as follows:

(1) When a hearing before a planning commission ***or board of zoning adjustment*** has been requested, the planning commission ***or board of zoning adjustment***, through its clerical and administrative staff, shall schedule a hearing. The hearing shall be conducted within thirty (30) days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed thirty (30) days. All continuances must receive the approval of the planning commission ***or board of zoning adjustment***. Not less than seven (7) days before the date set for the hearing, the planning commission ***or board of zoning adjustment*** shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Any person requesting a hearing before the planning commission ***or board of zoning adjustment*** who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the planning commission ***or board of zoning adjustment*** shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

(2) Each case before a planning commission ***or board of zoning adjustment*** shall be presented by an attorney who shall be counsel to the commission ***or board***.

(3) All testimony shall be under oath and shall be recorded. The planning commission ***or board of zoning adjustment*** shall take testimony from the land use enforcement officer, the alleged offender, and any witnesses to the alleged violation offered by the land use enforcement officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) After the hearing, the planning commission ***or board of zoning adjustment*** shall determine, based on the evidence presented, whether a violation was committed. When the commission ***or board*** determines that no violation was committed, an order dismissing the citation shall be entered. When the commission ***or board*** determines that a violation has been committed, the commission ***or board*** shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by the ordinance, or may order the offender to remedy a

continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by the ordinance.

(5) Every final order of a planning commission ***or board of zoning adjustment*** shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the planning commission ***or board of zoning adjustment*** is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

Section 7. KRS 100.413 is amended to read as follows:

(1) An appeal from any final order issued by a planning commission ***or board of zoning adjustment*** may be made to the District Court of the county in which the planning commission ***or board of zoning adjustment*** is located. The appeal shall be taken within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the commission's ***or board's*** order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the planning commission ***or board of zoning adjustment*** to establish that a violation has occurred. If the court finds that a violation occurred, judgment shall be entered ordering the offender to pay to the planning commission ***or board of zoning adjustment*** all fines assessed for the violation. If the court finds a violation did not occur, the complaint shall be dismissed.

(2) A judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

(3) If no appeal from a final order of a planning commission ***or board of zoning adjustment*** is filed within the time period set forth in this section, the planning commission's ***or board of zoning adjustment's*** order shall be deemed final for all purposes.

Section 8. KRS 100.415 is amended to read as follows:

The person or entity found to have committed a violation of a binding element ***or land use provision*** shall be responsible for the amount of all fines assessed for the violation. A planning commission ***or board of zoning adjustment*** may bring a civil action against the person or entity and shall have the same remedies as provided for the recovery of a debt.

Section 9. KRS 100.417 is amended to read as follows:

Nothing contained in KRS 100.401 to 100.419 shall prohibit a local government from taking immediate action to remedy a violation of a binding element ***or land use provision*** when there is reason to believe that the existence of the binding element violation ***or land use provision violation*** presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the binding element violation ***or land use provision violation*** will be irreparable or irreversible.

Section 10. KRS 100.419 is amended to read as follows:

The provisions of KRS 100.401 to 100.419 may be cited as the "Binding Element ***and Land Use Provision*** Enforcement Act."

Section 11. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost. ***If a local government has elected to establish a program to levy fines for violations of conditional use permit agreements in accordance with KRS 100.401 to 100.419, the planning unit shall also have the option of placing a fine for the period the violation continues on that parcel of land.***

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the

conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes. ***If a local government has elected to establish a program to levy fines for violations of conditional use permit agreements in accordance with KRS 100.401 to 100.419, the planning unit shall also have the option of placing a fine for the period the violation continues on that parcel of land.***

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city of the fifth or sixth class so affected within any county containing a city of the first class or a consolidated local government, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as the local zoning ordinance, regulations, or board of adjustment bylaws shall direct. Written notice shall be by first-class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 12. KRS 100.285 is amended to read as follows:

(1) Upon application of all persons owning land comprising a subdivision, the planning commission may revoke the approval of a subdivision plat, including all dedications of public facilities, easements and rights-of-way.

(2) Before any plat shall be revoked, all owners shall, as part of their application for revocation, state under oath that no person has purchased a lot shown on the plat.

(3) A revocation shall become effective only upon:

(a) A notation on the margin of the recorded plat stating that such plat has been revoked and the date of such vote of revocation; such notation shall be signed by the chairman, secretary, or other duly authorized officer of the commission; and

(b) A written approval of such revocation filed with the commission, duly signed by each entity to which an offer of dedication of any public or private facility, easement or right-of-way was made on the plat.

(4) The remedy provided in this section is in addition to all other remedies provided by law and shall not impair the right of the commission or any interested party from filing an action in Circuit Court for such relief as may be appropriate. ***If a local government has elected to establish a program to levy fines for violations of land use provisions in accordance***

with KRS 100.401 to 100.419, the planning unit shall also have the option of placing a fine for the period the violation continues on that parcel of land.

Section 13. KRS 100.291 is amended to read as follows:

The planning commission shall have the power to apply for an injunction against any type of subdivision construction by the subdivider or the landowner where a subdivision's regulations have been violated. ***If a local government has elected to establish a program to levy fines for violations of land use provisions in accordance with KRS 100.401 to 100.419, the planning unit shall also have the option of placing a fine for the period the violation continues on that parcel of land.***

HB 446, AN ACT relating to property valuation administrators' offices and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the Department of Revenue annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the department shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the department increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the Department of Revenue the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$45,387	$46,762	$48,137	$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269
Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

(3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be

retroactive to the preceding January 1.

(b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.

(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents ($687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the commissioner of the Kentucky Department of Revenue, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Department of Revenue. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

(5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The Department of Revenue may make grade classification changes corresponding to any approved for department employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the department may extend cost-of-living increases approved for department employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.

(6) Beginning with the 1990-1992 biennium, the Department of Revenue shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Department of Revenue. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Department of Revenue a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Department of Revenue shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the Department of Revenue to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Department of Revenue and shall be subject to the approval of the Department of Revenue. The Personnel Cabinet shall provide advice and technical assistance to the Department of Revenue in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Department of Revenue in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Department of Revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) ***(a) 1. The PVA compensation fund is hereby established as a separate revolving fund in the State Treasury. The fund shall consist of amounts transferred to the fund pursuant to the provisions of paragraphs (b) and (c) of this subsection.***

2. An amount equal to two percent (2%) of the total amount deposited in the fund during the fiscal year or the total amount remaining in the fund if that amount is less than two percent (2%) of the total amount deposited in the fund during the fiscal year shall not lapse, but shall be carried forward to the next fiscal year. Any interest earnings of the fund shall become a part of the fund. Any amount in excess of two percent (2%) of the total amount deposited in the fund during the fiscal year remaining in the fund at the close of the fiscal year shall lapse to the General Fund.

3. Moneys in the fund shall be used by the department to compensate property valuation administrators and all approved deputies and assistants, including the employer's share of FICA and state retirement. If any funds remain after providing for the compensation of all property valuation administrators and approved staff, an amount not to exceed five percent (5%) of the total amount deposited in the fund during the fiscal year may be used to provide assistance to counties with demonstrated office and equipment needs beyond those that can be satisfied with other available resources. Recommendations for the expenditure of funds for office and equipment needs shall be made to the department by the committee established by paragraph (d) of this subsection.

4. Moneys deposited in the fund are hereby appropriated for the purposes set forth in this subsection.

(b) Beginning with the 2008-2009 fiscal year and each fiscal year thereafter, an amount equal to two and eleven hundredths cents ($0.0211) of the state real property tax rate as established annually pursuant to the provisions of this chapter, as applied against the most recent certified state tax roll for real property, shall be deposited in the fund created by paragraph (a) of this subsection, to be used for the purposes set forth in paragraph (a) of this subsection.

(c) If, in any fiscal year, the amount projected to be deposited in the fund plus any balance carried forward from the prior fiscal year is insufficient to meet the projected expenditures for compensation of the property valuation administrators and any approved deputies and assistants, including the employer's share of FICA and state retirement for the fiscal year, an additional amount equal to the shortfall shall be deposited in the fund as a necessary governmental expense.

(d) 1. The PVA Advisory Committee is hereby created. The committee shall be administratively attached to and staffed by the department. The committee shall consist of up to sixteen (16) members as follows:

a. Ten (10) members shall be property valuation administrators, selected by the property valuation administrators using a process developed by the department. Three (3) property valuation administrator representatives shall be from counties with populations of under ten thousand (10,000), four (4) shall be from counties with populations between ten thousand (10,000) and sixty thousand (60,000), and three (3) shall be from counties with populations of over sixty thousand (60,000); and

b. Up to six (6) members shall be appointed by the commissioner of the department, and shall be employees of the department involved with the administration and oversight of the property valuation administrators and their offices.

2. The duties of the advisory committee shall be as follows:

a. To monitor the allocations and distributions from the fund established by paragraph (a) of this subsection and to advise the department regarding future staffing needs of property valuation administrators;

b. To develop a procedure for the review of requests to the department for assistance with equipment or office needs from property valuation administrators ; and

c. To make recommendations to the department regarding the funding of specific requests for assistance from property valuation administrators.

3. The department shall provide the committee with the information necessary to monitor the expenditures from the fund.

(10) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000 and $0.002 for

		each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(11)[~~(10)~~] The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
----	$700,000,000	$25,000
$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	-----	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his ***or her*** deputies and other authorized personnel, and other authorized expenses of the office.

[~~(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Department of Revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.~~]

(12) [~~After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, ~~]The fiscal court shall pay the[~~ remainder of the~~] county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall ***be disposed of in accordance with the provisions of***[~~be retained by the property valuation administrator, except as provided in~~] KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9)

and (10) of this section, whichever is greater.

Section 2. KRS 132.601 is amended to read as follows:

(1) The property valuation administrator of any county may, after receiving an approved budget from the Department of Revenue under the provisions of KRS 132.590, obligate and spend any of the local funds accruing to his office under the provisions of KRS 132.590 or KRS 132.285[~~, over and above that actually used in compensating his deputies and assistants~~], for the purchase of any maps, lists, charts, materials, supplies or equipment, or for other expenses necessary to the proper assessment of property or preparation and maintenance of assessment rolls and records.

(2) The property valuation administrator shall maintain a bank account for the management of local funds received by his office under the provisions of KRS 132.590 and 132.285. Beginning with the 1990-1992 biennium, at the end of each fiscal year a cumulative carryover of local funds equivalent to the total annual local appropriation for the ending fiscal year or five thousand dollars ($5,000), whichever is greater, shall be retained. Any funds in excess of this amount shall be refunded by the property valuation administrator no later than August 1 to the appropriating local governments in direct proportion to their respective appropriations.

(3) Expenditures made by the office of the property valuation administrator under the provisions of subsection (1) of this section shall be governed by procurement procedures adopted by the fiscal court in the county administrative code required by KRS 68.005. However, after approval of the annual budget for the office of the property valuation administrator provided in KRS 132.590 by the Department of Revenue, the necessity of the expenditure shall not be questioned by the fiscal court. The Department of Revenue shall have neither authority nor responsibility in the auditing of expenditures made by the property valuation administrator from locally appropriated funds. The Auditor of Public Accounts shall assume the responsibility.

Section 3. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(8) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590*(10)*[~~(9)~~] in determining the amount of county appropriation to the office of the property valuation administrator;

(11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;

(12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;

(13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(14) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;

(15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;

(16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;

(17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;

(18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;

(19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;

(20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:

  (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and

  (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange; and

(21) Qualifying voluntary environmental remediation property for a period of three (3) years following the issuance of a covenant not to sue by the Environmental and Public Protection Cabinet for all known releases located on the property; and

(22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:

  (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;

  (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments; and

  (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation.

HB 472, AN ACT relating to nuisances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.770 is amended to read as follows:

(1) As used in this section:

  (a) "Automobile collector" means a person who collects and restores motor vehicles; and

  (b) "Ordinary public view" means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property; and

  (c) "Parts car" means an automobile that is not intended to be operated along streets and roads, but is used to provide parts for the restoration of other automobiles.

(2) Except as provided in subsection (3) of this section, it shall be unlawful for the owner, occupant or person having control or management of any land within a city, county, consolidated local government, urban-county, ***charter county, unified local government,*** or unincorporated area to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:

  (a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;

  (b) One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or nonoperative and which are not inhabited;

(c) Rubbish; or

(d) The excessive growth of weeds or grass.

(3) The provisions of paragraph (a) of subsection (2) of this section shall not apply to:

(a) Junked, wrecked, or nonoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a licensed automotive recycling dealer as defined under the provisions of KRS 190.010(8);

(b) Junked, wrecked, or nonoperative motor vehicles, including parts cars, stored on private real property by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery, or other means***. Notwithstanding the exemption provided under this paragraph, a city, county, consolidated local government, urban-county government, charter county government, or unified local government may adopt and enforce an ordinance regulating junked, wrecked, or nonoperative motor vehicles, including parts cars, that is more restrictive than the provisions of this section***; and

(c) Any motor vehicle as defined in KRS 281.011 that is owned, controlled, operated, managed, or leased by a motor carrier.

(4) It shall be unlawful in any city, county, consolidated local government, ***charter county, unified local government,*** or urban-county for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the city, county, consolidated local government, ***charter county, unified local government,*** or urban-county.

(5) Any city, county, consolidated local government, ***charter county, unified local government,*** or urban-county may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(6) A city, county, consolidated local government, ***charter county, unified local government,*** or urban-county shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding.

(7) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city, county, ***consolidated local government, charter county, unified local government,*** or urban-county may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(8) The provisions of subsections (5), (6), and (7) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

HB 496, AN ACT relating to planning and zoning notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.411 is amended to read as follows:

(1) When a hearing before a planning commission has been requested, the planning commission, through its clerical and administrative staff, shall schedule a hearing. The hearing shall be conducted within thirty (30) days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed thirty (30) days. All continuances must receive the approval of the planning commission. Not less than seven (7) days before the date set for the hearing, the planning commission shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice may be given by ***first-class mail***[~~certified mail, return receipt requested~~]; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Any person requesting a hearing before the planning commission who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the planning commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

(2) Each case before a planning commission shall be presented by an attorney who shall be counsel to the commission.

(3) All testimony shall be under oath and shall be recorded. The planning commission shall take testimony from the land use enforcement officer, the alleged offender, and any witnesses to the alleged violation offered by the land use enforcement officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) After the hearing, the planning commission shall determine, based on the evidence presented, whether a violation was committed. When the commission determines that no violation was committed, an order dismissing the citation shall be entered. When the commission determines that a violation has been committed, the commission shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by the ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by the ordinance.

(5) Every final order of a planning commission shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the planning commission is issued, the order shall be delivered to that person by ***first-class mail***[~~certified mail, return receipt requested~~]; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

Section 2. KRS 100.9865 is amended to read as follows:

In addition to the requirements of KRS 100.987, a uniform application shall include:

(1) The full name and address of the applicant;

(2) The applicant's articles of incorporation, if applicable;

(3) A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs and foundation design recommendations;

(4) A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;

(5) Clear directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions;

(6) The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2);

(7) The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;

(8) A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;

(9) A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;

(10) The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;

(11) A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;

(12) A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:

 (a) Notified by ***first-class mail***[~~certified mail, return receipt requested~~], of the proposed construction, which notice shall include a map of the location of the proposed construction;

 (b) Given the telephone number and address of the local planning commission; and

 (c) Informed of his or her right to participate in the planning commission's proceedings on the application;

(13) A list of the property owners who received the notice, together with copies of the[~~ certified~~] letters sent to the listed property owners;

(14) A statement that the chief executive officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction;

(15) A copy of the notice sent to the chief executive officer of the affected local governments and their legislative bodies;

(16) A statement that:

 (a) A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and

(b) A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;

(17) A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed;

(18) A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;

(19) A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and

(20) A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.

HB 526, AN ACT relating to fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.090 is amended to read as follows:

(1) ***Constables in a county containing an urban-county government and*** sheriffs ***in all counties*** may charge and collect the following fees from the Commonwealth and any of its agencies, including the Department of State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of State Police makes a request that the sheriff ***or constable*** perform any of the following:

(a) Executing and returning process $20.00;

(b) Serving an order of court and return 3.00;

(c) Summoning or subpoenaing each witness, fee to be paid by requester
to sheriff ***or constable*** before service 10.00;

(d) Summoning an appraiser or reviewer 2.00;

(e) Attending a surveyor, when ordered by a
court, per deputy***,***[~~or~~] sheriff***, or constable*** assigned 20.00;

(f) Taking any bond that he ***or she*** is authorized or
required to take in any action 5.00;

(g) Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six percent (6%) on the first three hundred dollars ($300) and three percent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case;

(h) Taking a recognizance of a witness 3.00;

(i) Levying an attachment 5.00;

(j) When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court;

(k) Summoning a garnishee 3.00;

(l) Summoning a jury in a misdemeanor case, attending the trial, and
conducting the defendant to jail, to be paid by the party
convicted 8.00;

(m) Serving process or arresting the party in
misdemeanor cases, to be paid by the plaintiff 30.00;

(n) Serving an order or process of revivor 3.00;

(o) Executing a writ of possession against each tenant or defendant 7.00;

(p) Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission;

(q) Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses 8.00;

(r) Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;

(s) Levying for a fee-bill 3.00;

(t) Serving a notice 2.00;

(u) Serving summons, warrants or process of arrest in cases of children born out of wedlock 6.00;

(v) Serving a civil summons in a nonsupport case 10.00;

(w) Serving each order appointing surveyors of roads, to be paid out of the county levy 5.00;

(x) Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant 5.00;

(y) Like services in cases of private passways to be paid by the applicant 5.00;

(z) Executing each writ of habeas corpus, to be paid by the petitioner 3.00;

(aa) All services under a writ issued under KRS 381.460 to 381.570 .... 10.00; and

(bb) For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff ***or constable*** shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

(2) ***Constables in a county containing an urban-county government and*** sheriffs ***in all counties*** may charge and collect a fee of forty dollars ($40) from any person not requesting the service of the sheriff ***or constable*** on behalf of the Commonwealth, any of its agencies, or the Department of State Police for the services provided in subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.

HCR 155, A CONCURRENT RESOLUTION authorizing and directing a study to determine the suitability of using public broadcast legal notices to meet advertising requirements in KRS Chapter 424.

WHEREAS, KRS Chapter 424 requires certain legal notices and notices of events to be published in newspapers; and

WHEREAS, there may be cost savings for the state and for affected private entities if the required notices are made through public broadcast publications; and

WHEREAS, use of public broadcast publications for the required notices may result in the same or greater level of public notification as newspaper publications;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The staff of the Legislative Research Commission is directed to conduct a study on the suitability of using public broadcast publication as an alternative to newspaper publication to meet advertising requirements in KRS Chapter 424.

Section 2. The study shall consider potential cost savings to the governmental and private entities required by KRS Chapter 424 to advertise if the required advertisements are made by public broadcast publication rather than newspaper publication.

Section 3. The study shall consider whether there is any increased level of public notification achieved by public broadcast publication instead of newspaper publication.

Section 4. The study shall be concluded by October 1, 2007, and shall be reported to the Legislative Research Commission for its referral to the appropriate committee.

Section 5. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 60, AN ACT relating to uniform financial information reports for local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.900 is amended to read as follows:

As used in KRS 65.905 to 65.920, unless the context requires otherwise:

(1) "City" means every city organized and governed under the mayor-alderman form of government pursuant to KRS Chapter 83, every city organized and governed under the mayor-council form of government pursuant to KRS Chapter 83A, every city organized and governed under the commission form of government pursuant to KRS Chapter 83A, every city organized and governed under the city manager form of government pursuant to KRS Chapter 83A, ***every consolidated local government organized and governed under the consolidated local government form of government pursuant to KRS Chapter 67C,*** and every urban-county government organized and governed under the urban-county form of government pursuant to KRS Chapter 67A.

(2) "County" means any of Kentucky's one hundred and twenty (120) counties.

(3) "Special district" means any district with ad valorem taxing powers including, but not limited to, those specified in the following KRS statutes: KRS 75.010 to 75.260, KRS 76.274 to 76.279, KRS 104.450 to 104.680, KRS 107.310 to 107.500, KRS 108.080 to 108.180, KRS 109.115 to 109.190, KRS 147.610 to 147.710, KRS 164.605 to 164.675, KRS 173.450 to 173.650, KRS 173.710 to 173.800, KRS 179.700 to 179.990, KRS 210.370 to 210.480, KRS 212.720 to 212.760, KRS 216.310 to 216.360, KRS 220.010 to 220.613, KRS 262.010 to 262.660, KRS 262.700 to 262.990, KRS 266.010 to 266.990, KRS 268.010 to 268.990, and KRS 269.100 to 269.270.

(4) "Local government" includes the terms city, county, ***consolidated local government, urban-county government,*** and special district as defined in this section.

(5) "Lease-purchase agreement" means an agreement to lease or to lease and purchase major items of property, equipment, or services estimated to cost fifty thousand dollars ($50,000) or more, and two hundred thousand dollars ($200,000) or more for the construction or installation of a building or a utility.

Section 2. KRS 65.905 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, each local government as defined in KRS 65.900 shall annually, after the close of the fiscal year, complete a uniform financial information report. The report shall be submitted to the Department for Local Government by May 1 immediately following the close of the fiscal year. The Department for Local Government shall immediately send one (1) copy of the uniform financial information report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(2) The final quarterly report filed by a county within fifteen (15) days after the end of the last quarter of the fiscal year, in accordance with KRS 68.360(2), shall be deemed the uniform financial information report for that county for purposes of compliance with KRS 65.900 to 65.925[~~, if that quarterly report contains, at a minimum, all information required by KRS 65.910~~].

(3) Each city may have the uniform financial information report completed by its selected auditor as part of the terms and conditions of the written agreement between the city and the auditor in accordance with KRS 91A.040. Each county may have the uniform financial information report completed by its auditor selected in accordance with KRS 43.070 or 64.810. Each special district may have the uniform financial information report completed by its auditor selected in accordance with KRS 65.065. If a city does not use the auditor to complete the uniform financial information report, it shall by order designate an elected or nonelected official to be responsible for annually completing the report and submitting it to the Department for Local Government. If a local government has any agency, board, or commission that receives any funding from the local government, but conducts its operations on an autonomous or semi-autonomous basis, the local government shall note on the uniform financial information report the name of the agency, board, or commission; the mailing address of the agency, board, or commission; and the dollar amount annually appropriated by the local government to the agency, board, or commission.

(4) The Department for Local Government shall by administrative regulation prescribe the format of the uniform financial information report. The department shall attempt to coordinate and combine efforts with the United States Bureau of the Census in the development of the format of the uniform financial information report so that a single report will meet the needs of both agencies and fulfill the requirements of KRS 65.900 to 65.925. Regardless of any agreement between the Department for Local Government and the United States Bureau of the Census, the department shall maintain responsibility for assuring that a uniform financial information report is distributed to each local government as soon as practicable after the close of each fiscal year, but in no event later than one hundred twenty (120) days prior to the required

submission date of May 1.

(5) The Department for Local Government shall use the uniform financial information report to replace as many financial information forms as possible that local governments are currently required to complete and submit to the department for use by either the state or federal governments, by consolidating the required information into the uniform report.

Section 3. KRS 65.910 is amended to read as follows:

(1) The uniform financial information report shall include, but not be limited to, information relating to demographics,[~~ bonded indebtedness,~~] debt service[~~ requirements~~], lease-purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues ***and expenses***, charges for services, and all expenditures[~~ as set forth in this section~~].

(2)[~~ Demographic information shall include:~~

~~(a) The name of the unit of local government;~~

~~(b) The county in which the city or special district is located;~~

~~(c) The classification of the city;~~

~~(d) The population of the unit of local government;~~

~~(e) The form of government of the city; and~~

~~(f) The area development district in which the unit of local government is located.~~

~~(3) Bonded indebtedness and debt service information shall include:~~

~~(a) The name of each project listed individually;~~

~~(b) The type of bond issue used for each project;~~

~~(c) The bonded indebtedness of each project;~~

~~(d) The debt service requirements of each project; and~~

~~(e) The specific source of debt service funds, whether local government appropriations or use of nongovernment funds.~~

~~(4) Lease-purchase agreement information shall include:~~

~~(a) Purpose of the agreement;~~

~~(b) Identity of the lessor;~~

~~(c) Principal amount of the agreement;~~

~~(d) Interest rate or rates for the agreement;~~

~~(e) Date the local government entered into agreement;~~

~~(f) Length of term of agreement;~~

~~(g) Current annual debt service requirements for agreement; and~~

~~(h) A list of and the purpose of any short-term renewal bank notes.~~

~~(5) Tax rate and revenue information shall include:~~

~~(a) The compensating tax rate and the maximum tax rate for the current fiscal year and the preceding fiscal year;~~

~~(b) The current fiscal year ad valorem tax rate levied by the local government, the preceding fiscal year revenues collected by the local government, and the assessed property valuation for real property, personal property, and motor vehicles and watercraft; and~~

~~(c) The current fiscal year tax rate levied by the local government and the preceding fiscal year revenues collected by the local government for the following types of taxes:~~

~~1. Occupational license tax on persons;~~

~~2. Occupational license tax on business net profits, gross receipts, or a flat rate;~~

~~3. Insurance premium tax on fire and allied perils, casualty liability only, vehicle, inland marine, health, life, all other risks taxed, minimum tax and company taxable reserves;~~

~~4. Transient room tax;~~

~~5. Restaurant tax;~~

~~6. Bank franchise tax;~~

~~7. Delinquent collections; and~~

~~8. Special purpose and other taxes.~~

~~(6) Information on licenses, permits, and fees shall include the amount charged and the preceding fiscal year revenues collected by the local government for the following types of licenses, permits, and fees:~~

~~(a) Alcoholic beverage licenses for the manufacture and sale, distilled spirits and wine, malt beverages, Sunday sales, and regulatory license fee on gross receipts;~~

~~(b) Required sticker fees on automobiles and trucks;~~

~~(c) Motor vehicles fees on taxicabs, truck tractors, semitrailers and trailers;~~

~~(d) Coin-operated machines;~~

~~(e) Cable television;~~

~~(f) Building, electrical, and plumbing permits;~~

~~(g) Zoning permits and development impact fees;~~

~~(h) Building, elevator, electrical, plumbing, food, rehabilitation, and any other inspection fees;~~

~~(i) Licensing of electricians and electrical contractors;~~

~~(j) Unloading fees;~~

~~(k) Public service fees for fire protection, police protection;~~

~~(l) Ambulance service franchise fees and ambulance run fees;~~

~~(m) Animal license fees; and~~

~~(n) Any other source of license, permit, or fee.~~

~~If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.~~

~~(7) Information on utilities shall include the franchise tax or fee, charge for service, user fee or "tap on" fee, and preceding fiscal year revenues collected by the local government on the following utilities:~~

~~(a) Waterworks;~~

~~(b) Sewage treatment;~~

~~(c) Electric light, heat, and power;~~

~~(d) Gas;~~

~~(e) Garbage collection for residential, commercial, and industrial customers, and landfill fees;~~

~~(f) Transit authority; and~~

~~(g) Any other type of utility.~~

~~If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.~~

~~(8) Information on intergovernmental revenues shall include the types of intergovernmental revenues received by the local government, preceding fiscal year revenues collected by the local government, and rate and interest requirements for loan repayments that shall include:~~

~~(a) Kentucky Law Enforcement Foundation Program fund;~~

~~(b) Professional Firefighters Foundation Program fund;~~

~~(c) Community development block grant funds;~~

~~(d) County or municipal road aid;~~

~~(e) Local government economic assistance funds;~~

~~(f) Net court revenues;~~

~~(g) Kentucky Infrastructure Authority funds;~~

~~(h) Economic development bonds;~~

~~(i) Kentucky Economic Development Finance Authority funds;~~

~~(j) Environmental Protection Agency funds;~~

~~(k) County or city transfers; and~~

~~(l) Any other source of state or federal funds.~~

~~(9) Information on miscellaneous revenues and charges for services shall include the source of revenue, charge, or fee levied by the local government and preceding fiscal year revenues collected for the following:~~

~~(a) Parking meter receipts;~~

~~(b) Parking facility receipts;~~

~~(c) Parking violation fines;~~

~~(d) Charges for impounded vehicles;~~

~~(e) Sale of abandoned vehicles;~~

~~(f) Delinquent tax bills;~~

~~(g) Fines and forfeitures;~~

~~(h) Penalties and interest;~~

~~(i) Franchise payments for governmental services bid out to the private sector;~~

~~(j) Golf course receipts;~~

~~(k) Parks and recreation;~~

~~(l) Proceeds from sale of seized and forfeited property;~~

~~(m) Rent;~~

~~(n) Interest from investments and dividends; and~~

~~(o) Any other source of revenue or charge for service.~~

~~(10)~~] Information on expenditures shall be listed by total only and indicate the fund from which an appropriation was made. The Department for Local Government shall consult with the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Municipal Finance Officers' Association, the Kentucky Society of Certified Public Accountants, and other affected interest groups, as well as local officials in the development of information to be included in the expenditure section of the uniform financial information report.

Section 4. KRS 65.920 is amended to read as follows:

(1) Any local government that fails to submit annually a uniform financial information report to the Department for Local Government shall be ineligible to receive county or municipal road aid moneys in accordance with KRS 177.360 or 177.366. Any local government receiving road aid moneys in accordance with KRS 177.365 to 177.369 or KRS 177.320 and 177.360 that fails to comply with the provisions of KRS 65.900 to ***65.920***~~[65.915]~~ shall immediately have all road aid payments suspended until the local government submits the uniform financial information report to the Department for Local Government.

(2) If a local government receives payments of money from the Commonwealth and fails to comply with the provisions of KRS 65.900 to ***65.920***~~[65.925]~~ or KRS 92.280(1), the state local finance officer may notify those agencies making payments to the local government of noncompliance, and those agencies shall immediately suspend delivery of all payments to the local government except those payments made pursuant to KRS Chapter 154 or KRS 42.4588, until the state local finance officer determines that the local government has complied with the requirements of KRS 65.900 to ***65.920***~~[65.925]~~ or KRS 92.280(1).

Section 5. KRS 177.360 is amended to read as follows:

(1) Except as provided in subsection (5) of this section, the Department of Intergovernmental Programs shall allocate the funds set apart under KRS 177.320(1) for construction, reconstruction, and maintenance of state-maintained secondary and rural highways as follows:

  (a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.

  (b) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.

  (c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.

  (d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.

(2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering, and other costs of the program.

(3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the Department of Intergovernmental Programs in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.

(4) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.

(5) Any county eligible to receive county road aid moneys in accordance with KRS 177.320 and this section shall be required to submit a uniform financial information report to the Department for Local Government in accordance with KRS 65.905 before any payment of county road aid funds shall be made. The Department for Local Government shall notify the

Department of Intergovernmental Programs no later than March 1 annually of any county that has not submitted a uniform financial information report. The Department of Intergovernmental Programs shall upon notification by the department immediately suspend all county road aid moneys to the county until the county complies with the provisions of KRS 65.900 to ***65.920***[~~65.915~~] and submits the uniform financial information report to the Department for Local Government. The department shall immediately notify the Department of Intergovernmental Programs to reinstate county road aid moneys to any county affected by this subsection as soon as the county submits the uniform financial information report.

Section 6. KRS 177.366 is amended to read as follows:

(1) Except as provided in subsection (8) of this section, on and after July 1, 1980, the Finance and Administration Cabinet shall allocate to each incorporated city and "unincorporated urban place" its pro rata share of the funds set apart for construction, reconstruction, and maintenance of urban roads and streets on the basis of the ratio which the population in the incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here, means an area as defined in KRS 81.015, and any area outside of incorporated cities, which area has a population of 2,500 or more as shown by the most recent decennial census of the United States Bureau of the Census, and all populations shall be determined by the most recent decennial census of the United States.

(2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the Municipal Aid Program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population of the newly incorporated area as it existed at the time of the last decennial census.

(3) In the event the newly incorporated area cannot obtain a population count from the Bureau of the Census, it shall not be eligible to participate in the Municipal Aid Program until the next decennial census.

(4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.

(5) It shall be the responsibility of the incorporated city to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population for the annexed area as it existed at the time of the last decennial census.

(6) If the incorporated area cannot obtain a population count from the Bureau of the Census, the annexed area's population shall not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas shall be eligible to receive work through this program.

(7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Office of State Budget Director and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the Office of State Budget Director.

(8) Any local government eligible to receive municipal road aid moneys pursuant to KRS 177.365 to 177.369 shall be required to submit a uniform financial information report to the Department for Local Government pursuant to KRS 65.905 before any payment of municipal road aid funds shall be made. The Department for Local Government shall notify the Finance and Administration Cabinet no later than March 1 annually of any local government that has not submitted a uniform financial information report. The Finance and Administration Cabinet shall upon notification by the department, immediately suspend all municipal road aid moneys to the local government until the local government complies with the provisions of KRS 65.900 to ***65.920***[~~65.915~~] and submits the uniform financial information report to the Department for Local Government. The department shall immediately notify the Finance and Administration Cabinet to reinstate municipal road aid moneys to any local government affected by this subsection as soon as the local government submits the uniform financial information report.

Section 7. The following KRS section is repealed:

65.915 Date of filing first report.

The Committee on Education reported **HB 471** and **HCR 154** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 471, AN ACT relating to school facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:

1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction*, and maintenance* of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

(h) The transportation of children to and from school;

(i) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;

3. Administrative regulations required by federal law; and

4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

Section 2. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

(1) The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year.

(2) Beginning with the 2004-2006 biennium, the Kentucky Board of Education shall not approve any working budget or salary schedule for local boards of education for any school year unless the one hundred eighty-five (185) day salary schedule for certified staff has been adjusted over the previous year's salary schedule by a percentage increase at least equal to the cost-of-living adjustment that is provided state government workers under the biennial budget. The base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320 shall be increased by the statewide dollar value of the annual required cost-of-living percentage adjustment that shall be estimated on the sum of the previous year's statewide teachers' salaries.

(3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.

(4) ***(a)*** The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:

1.[~~(a)~~] For direct payment of construction costs;

2.[~~(b)~~] For debt service on voted and funding bonds;

3.[~~(c)~~] For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

4.[~~(d)~~] For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and

5.[~~(e)~~] As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(b) A local district may submit a request to the commissioner of education to use capital outlay funds for maintenance expenditures without forfeiting the district's participation in the School Facilities Construction Commission program. Maintenance shall not include property insurance.

(5) The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and

58.600, shall be based on the following:

(a) The energy conservation measures shall include facility alteration;

(b) The energy conservation measures shall be identified in the district's approved facility plan;

(c) The current facility systems are consuming excess maintenance and operating costs;

(d) The savings generated by the energy conservation measures are guaranteed;

(e) The capital outlay funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and

(f) The equipment that is replaced shall have exceeded its useful life as determined by a life-cycle cost analysis.

(6) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(7) If a survey shows that a school district has no capital outlay needs as shown in ***subparagraphs 1., 2., 3., and 4. of paragraph***[~~paragraphs~~] (a)[~~, (b), (c), and (d)~~] of subsection (4) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

(8) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.

(a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

(b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

(c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.

(9) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.

Section 3. KRS 157.620 is amended to read as follows:

(1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities as defined by KRS 157.440. A district that levies the five cents ($0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.

(b) On July 1 of odd-numbered years, the district board of education shall restrict all available local revenue, as defined by KRS 157.615, for school building construction, to be utilized in accordance with the priorities determined by the most current school facilities plan approved by the Kentucky Board of Education.

(2) Interest earned on restricted funds required by this section shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.

(4) Not later than ***December***[~~October~~] 15 of the year immediately preceding an even-numbered year regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the Kentucky Board of Education as of June 30 of the year preceding an even-numbered year regular session of the General Assembly.

HCR 154, A CONCURRENT RESOLUTION confirming the nomination of Eugene Jeffrey Mosley to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, by the authority granted by KRS 164.005, Governor Ernie Fletcher has issued Executive Order 2007-131 appointing Eugene Jeffrey Mosley to the Governor's Postsecondary Education Nominating Committee representing the 4th Supreme Court District to replace Marc Alan Yussman, whose term has expired, for a term ending April 14, 2012; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of February 9, 2007, the Governor has delivered Eugene Jeffrey Mosley's name for confirmation as a member of the Governor's Postsecondary Education Nominating Committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Eugene Jeffrey Mosley meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Eugene Jeffrey Mosley to the Governor's Postsecondary Education Nominating Committee representing the 4th Supreme Court District for a term ending April 14, 2012.

Section 2. The Clerk of the House of Representatives shall send notification of the General Assembly's action to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and Eugene Jeffrey Mosley, 6003 Windsong Court, Louisville, Kentucky 40207.

The Committee on Elections, Constitutional Amendments and Intergovernmental Affairs reported **HB 66** and **SB 159,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 66, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election made under KRS 118.215, because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election, and if that party's nominee was the only political party candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.

(5) ***If a vacancy occurs in the nomination of a candidate under the conditions of subsection (3) or (4) of this section prior to September 15 preceding the day of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. ten (10) days after the vacancy occurs, excluding weekends and legal holidays.*** If a vacancy occurs in the nomination of a candidate under the conditions

of ***subsections***[~~ subsections~~] (3) or (4) of this section ***on or*** after ***September 15***[~~the certification of candidates for the regular election but not later than the second Thursday~~] preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs***, excluding weekends and legal holidays***.

(6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265.

(7) This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections.

Section 2. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2), (3), and (4) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the absentee ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(f) Successful nominees of all nonpartisan primaries which shall have been conducted;

(g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;

(h) The county clerk shall determine whether the name of any replacement candidate who has been nominated as provided in KRS 118.105(5) may be placed on the machine ballot or ballot cards and whether the voting machine may be reprogrammed to count the votes cast for that candidate or whether the ballot or ballot cards must be reprinted to accommodate votes cast for any replacement candidate and shall take the appropriate action to accommodate the replacement of any candidate. If the county clerk determines that the name of any replacement candidate cannot be accommodated on the existing ballot or ballot cards and if there is insufficient time before the election to reprint the entire ballot, the county clerk shall request approval to use supplemental paper ballots for voting for that office only in the same manner as permitted for other situations as provided in KRS 118.215(5), and, if approved, shall have an adequate number of supplemental paper ballots printed for voting for that office and only votes cast for that office by means of the supplemental paper ballots shall be tabulated and recorded by the precinct election officers and county board of elections. All actions by a county clerk, the State Board of Elections, and the Secretary of State which are necessary to provide for voting at a regular election for candidates nominated pursuant to KRS 118.105(5) shall be carried out with all possible speed. When a candidate has been replaced as provided in KRS 118.105(5) after absentee ballots have been printed and distributed for the regular election, neither the precinct election officers nor the county board of elections shall tabulate or record any absentee votes cast for the candidate who was replaced. If ballots are reprinted or supplemental paper ballots are printed***, or if voting machines must be reprogrammed to count the votes cast for a replacement candidate***, the costs for the printing ***and reprogramming*** shall be paid by the political party who has nominated a replacement candidate, or proportionately by each political party if each party nominates a replacement candidate;

(i) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, if the certificate of nomination of the electors has been filed with the Secretary of State within the time prescribed in this chapter;

(j) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210; and

(k) Candidates for city office for which no nonpartisan primary has been conducted in a city which requires nonpartisan city elections.

(2) Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

(3) Candidates for members of boards of education shall have their names printed on ballot labels and absentee ballots for the regular election only after filing as provided in KRS 160.220.

(4) Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and absentee ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(5) No county clerk shall knowingly cause to be printed, upon the ballot labels or absentee ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in subsection (1) of KRS 118.315.

(6) The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.

(7) When a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy.

SB 159, AN ACT relating to the regulation of campaigns and elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Campaign account" or "campaign depository" means the campaign account of a candidate or slate of candidates for public office into which all contributions, including the candidate's own money, shall be deposited and from which all expenditures shall be made;

(2) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his or her consent for any other person to receive contributions or make expenditures with a view to bringing about his or her nomination or election to public office, except federal office;

(3) "Committee" includes the following:

(a) "Candidate campaign committee," which means a committee consisting of at least a campaign treasurer and a campaign chairperson who receive contributions and make expenditures to support a specific candidate or slate of candidates for nomination or election to any state, county, city, or district office;

(b) "Caucus campaign committee," which means members of one (1) of the following caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election, or a committee as defined in this subsection:

1. House Democratic caucus campaign committee;

2. House Republican caucus campaign committee;

3. Senate Democratic caucus campaign committee; and

4. Senate Republican caucus campaign committee.

Caucus campaign committees shall operate independently from executive committees;

(c) "Executive committee," which means a state or county political party as defined in KRS Chapter 118, or an active congressional district;

(d) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(e) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a candidate campaign committee, referendum committee, political issues committee, inaugural committee, caucus campaign committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, and which functions on a regular basis throughout the year; and

(f) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends

money in excess of one thousand dollars ($1,000);

(4) "Contributing organization" means a group which merely contributes to candidates, slates of candidates, candidate campaign committees, caucus campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value to a candidate, his or her agent, a slate of candidates, its authorized agent, a committee, referendum committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, referendum committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his or her agent, a slate of candidates, its agent, a committee, referendum committee, or a contributing organization, exceeds the contribution limits provided in this chapter;

2. Payment by any person other than the candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, referendum committee, or a contributing organization of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, referendum committee, or contributing organization, or for inauguration activities;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, referendum committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

4. Payment by any person other than a candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, referendum committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, referendum committee, or contributing organization, or for inauguration activities.

(b) "Contribution" shall not include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, a slate of candidates, committee, referendum committee, or contributing organization;

2. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business;

3. An independent expenditure by any individual or permanent committee;

4. News stories, commentary, or editorials by the media;

5. Transfers between affiliated party entities that are not corporations; or

6. Communications to a restricted class such as membership communications;

(6) "Disbursement" means any purchase or payment made by a candidate, slate of candidates, referendum committee, or committee;

(7) "Election" means any primary, runoff primary, regular, or special election to fill vacancies, regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(8) "Electronic reporting" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;

(9) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(10) "Expenditure" means any reimbursement for actual expenses made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which may appear on the ballot, including but not limited to:

(a) Staff salaries;

(b) Gifts and meals for volunteer campaign workers;

(c) Food and beverages provided at a campaign rally;

(d) Advertising;

(e) Office space;

(f) Necessary travel;

(g) Campaign paraphernalia;

(h) Purchases of advertisements in athletic and scholastic publications;

(i) Communications with constituents, or prospective voters;

(j) Polling and consulting;

(k) Printing, graphic arts, or advertising services;

(l) Postage;

(m) Office supplies and stationery;

(n) Newsletters; and

(o) Equipment which is used primarily for the administration of the campaign;

(11) "Filer" means any candidate, a slate of candidates, committee, referendum committee, or other individual or entity required to submit financial disclosure reports to the registry;

(12) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry;

(13) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;

(14) "Independent expenditure" means the expenditure of money or other things of value for a communication which:

(a) Expressly advocates the election or defeat of a clearly identified candidate or slate of candidates;

(b) Is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them; and

(c) Is not made in concert with, or at the request or suggestion of, any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them;

(15) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his or her conduct is of that nature or that the circumstance exists;

(16) "Referendum committee" means a combination of two (2) or more individuals or two (2) or more business entities, whose purpose is to support or oppose the passage of any issue that may be placed on the ballot;

(17) "Registry" means the Kentucky Registry of Election Finance;

(18) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(19) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration in accordance with KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates; and

(20) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational.

Section 2. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the *chairperson*[~~chairman~~], the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation,[~~ to~~] order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, [~~to ~~]compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry ***under***[~~pursuant to~~] KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the secretary of the Personnel Cabinet and shall be subject to his ***or her*** review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, ***referendum committees,*** and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, ***referendum committees,*** and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, ***referendum committees,*** committees, contributing organizations, and parties containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate or slate of candidates, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a ***candidate*** campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he ***or she*** is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or ***candidate*** campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he ***or she*** is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of ***candidate campaign committees and*** candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected ***candidate campaign committees or*** candidate, it shall also audit the records of all other ***candidate campaign committees and*** candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all ***candidate campaign committees,*** candidates***,*** or slates of candidates running for statewide office***, except those candidate campaign committees, candidates, or slates of candidates running for statewide office that receive or spend less than five thousand dollars ($5,000)***;

(l) Require that ***candidate campaign committees,*** candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the[~~ regular~~] election ***to which the records pertain, but not to exceed six (6) years from the date the record was filed***[~~in their respective political races~~];

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion; and

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter which may become the subject of civil or criminal prosecution.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself ***or herself*** or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he ***or she*** considers to be an abridgement of his ***or her*** legal rights.

(6) If adequate and appropriate agency funds are available, the registry shall:

(a) Develop or acquire a system for electronic reporting for use by individuals and entities required to file campaign finance reports with the registry under this chapter. The registry shall promulgate administrative regulations under KRS Chapter 13A which provide for a nonproprietary standardized format or formats, using industry standards, for the transmission of data required under this chapter;

(b) Accept test files from software vendors and persons wishing to file reports electronically for the purpose of determining whether the file format complies with the nonproprietary standardized format developed under paragraph (a) of this subsection and is compatible with the registry's system for receiving the data;

(c) Make all paper or electronic reports filed with the registry pertaining to candidates for the General Assembly and statewide office available on the Internet free of charge, in an easily understood format that allows the public to browse, search, and download the data contained in the reports by each of the reporting categories required by this chapter, including, but not limited to:

1. The name of each candidate or committee;
2. The office sought by each candidate;
3. The name of each contributor;
4. The address of each contributor;
5. The employer or business occupation of each contributor, or if the contributor is a permanent committee, a description of the major business, social, or political interest represented by the permanent committee;
6. The date of each contribution; and
7. The amount of each contribution.

(d) Make all data specified in paragraph (c) of this subsection available on the Internet no later than ten (10) business days after its receipt by the registry. If a contribution or expenditure report is filed late with the registry, that data shall be made available on the Internet within twenty-four (24) hours of the registry's receipt of the data;

(e) Make filer-side software available free of charge to all individuals or entities subject to the reporting requirements of this chapter;

(f) Establish a training program on the electronic reporting program and make it available free of charge to all individuals and entities subject to the reporting requirements of this chapter;[~~ and~~]

(g) Maintain all campaign finance data pertaining to legislative and statewide candidates on-line for twenty (20) years after the date the report containing the data is filed, and then archive the data in a secure format***;***

(h) Require candidates, candidate campaign committees, and slates of candidates to file electronically on the next regularly scheduled reporting date when:

1. During the election, contributions or loans in the aggregate of twenty-five thousand dollars ($25,000) or more are received; or

2. At any time, a balance in a campaign account or accounts in the aggregate of twenty-five thousand dollars ($25,000) exists;

(i) Require candidates, candidate campaign committees, and slates of candidates to electronically file all information from prior reports filed manually for that election, if any, when filing the first report electronically. Such manually filed prior reports shall be filed electronically before the next required report; and

(j) Require committees and referendum committees to electronically file all information from prior reports filed manually for that calendar year, if any, when filing the first report electronically. Such manually filed reports

shall be filed electronically before the next required report.

(7) In conjunction with the program of electronic reporting set out in subsection (6) of this section, the registry may:

(a) Develop or acquire a computer system that provides for on-line Internet submission of the reports required by this chapter utilizing security procedures to ensure the integrity of the data transmitted; and

(b) Provide procedures for verifying electronic signatures placed upon reports under this chapter.

Section 3. KRS 121.135 is amended to read as follows:

(1) Any person may file a written request with the ***general counsel to the*** registry for an advisory opinion concerning the application of the provisions of this chapter or any administrative regulation promulgated by the registry with respect to a specific transaction or activity by the person. The ***general counsel to the*** registry ***is authorized to issue***[~~shall render~~] a written advisory opinion relating to the specific transaction or activity to the person making the request ***and shall do so*** not later than ***twenty (20)***[~~thirty (30)~~] days after the registry receives the request.

(2)[~~ If a candidate, slate of candidates, or either of their campaign committees files a written request with the registry for an advisory opinion not more than thirty (30) days before the date of an election at which the candidate or slate of candidates shall appear on the ballot, the registry shall render a written advisory opinion relating to the request not later than twenty (20) days after the registry receives a complete request.~~

~~(3) No advisory opinion shall be issued by the registry or any of its employees except in accordance with the provisions of this section.~~

~~(4)~~] (a) Any advisory opinion rendered by the registry under subsection (1)[~~ or (2)~~] of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person or committee to whom a written advisory opinion has been rendered who relies upon any provision or finding of the advisory opinion and who acts in good faith in accordance with the provisions and findings of the advisory opinion shall not, as a result of any act with respect to a transaction or activity addressed by the advisory opinion, be subject to any sanction provided by this chapter or any administrative regulation promulgated by the registry.

(c) It shall be no defense in any civil or criminal proceeding regarding a violation of any provision of this chapter or any administrative regulation promulgated by the registry for a person or committee to claim that he ***or she*** relied upon and acted in good faith based upon any provision or finding of an advisory opinion if the person or committee was not the person or committee involved in the specific transaction or activity with respect to which the advisory opinion was rendered.

(3)[~~(5)~~] (a) The registry shall make public all written requests for an advisory opinion made under subsection (1)[~~ or (2)~~] of this section. Before rendering an advisory opinion, the registry shall accept written comments submitted by any interested party within the ten (10) day period following the date the request is made public.

(b) The registry shall make public all advisory opinions rendered under subsection (1)[~~ or (2)~~] of this section.

Section 4. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law. In conducting any investigation, the registry shall have the power of subpoena and may compel production of evidence including the financial records of any person determined by the registry to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.

(2) ***The registry is authorized to impose a civil penalty for the filing of a frivolous complaint, and the filing of a frivolous complaint shall be a violation of this chapter. For purposes of this subsection, "frivolous complaint" means a complaint which is groundless and brought in bad faith, or is groundless and brought for the purpose of harassment.***

(3) If the registry concludes that there is probable cause to believe that the law has been violated, the registry shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following:

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter.

(4)[~~(3)~~] To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the registry either in person or by mail postmarked not later than ten (10) days after the day he *or she* received it. The registry may institute a civil action in Franklin Circuit Court or the Circuit Court for the county of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(5)[~~(4)~~] If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, *the following procedure shall be initiated:*

(a) The registry shall submit a written request to the Chief Justice of the Kentucky Supreme Court to recommend not fewer than five (5) nor more than ten (10) retired or former justices or retired or former judges of the Court of Justice who are qualified and willing to conduct a hearing to determine if a violation has occurred*;*[~~.~~]

(b) Upon receipt of the recommendations of the Chief Justice, the registry shall randomly select one (1) retired or former justice or judge from the list to conduct the hearing, which shall be held in accordance with the Kentucky Rules of Civil Procedure*.*[~~, or,~~] If the Chief Justice declines to make recommendations, the registry, on its own initiative, shall request retired or former justices or judges to serve*;*[~~.~~]

(c) The time and location of hearings shall be determined by the registry*;*[~~.~~]

(d) Retired or former justices or judges selected to serve shall receive reimbursement from the registry for their reasonable and necessary expenses incurred as a result of the performance of their duties at the hourly rate set for attorneys by the Finance and Administration Cabinet*;*[~~.~~]

(e) The registry shall notify the complainant and the alleged violator that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing*;*[~~.~~]

(f) At the hearing, which shall be open to the public *in accordance with*[~~pursuant to~~] KRS 61.810, the attorney for the registry shall present the evidence against the alleged violator*.*[~~, and~~] The alleged violator shall have all of the protections of due process, including, but not limited to*:*[~~,~~]

1. The right to be represented by counsel*;*[~~,~~]

2. The right to call and examine witnesses*;*[~~,~~]

3. The right to the production of evidence by subpoena*;*[~~,~~]

4. The right to introduce exhibits*;* and

5. The right to cross-examine opposing witnesses*;*[~~.~~]

(g) If the justice or judge determines that the preponderance of the evidence shows a violation has occurred, the justice or judge shall render a decision not more than sixty (60) days after the case is submitted for determination*;*[~~.~~]

(h) The decision shall become the final decision of the registry unless the registry board at its next regular meeting acts to set aside or modify the justice's or judge's decision, in which case the registry board's decision shall become the final registry decision*;*[~~.~~]

(i) A party adversely affected by the registry's order may appeal to Franklin Circuit Court within thirty (30) days after the date of the registry's order*; and*[~~.~~]

(j) The violator may be ordered to comply with any one (1) or more of the following requirements:

1.[~~(a)~~] To cease and desist violation of this law;

2.[~~(b)~~] To file any reports or other documents or information required by this law;

3.[~~(c)~~] To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

4.[~~(d)~~] To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter. An appeal of an order shall be advanced on the docket to permit a timely decision.

(6)[~~(5)~~] If the registry concludes that there is probable cause to believe that the campaign finance law has been violated knowingly, it shall refer the violation to the Attorney General or the appropriate Commonwealth's or county attorney for prosecution. The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon a motion timely filed, for good cause shown, the court shall enter an order to that effect.

(7) Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county

in which the expenditure is mailed.

(8)[~~(6)~~] Any person directly involved or affected by an action of the registry which is final, other than of a determination to refer a violation to the Attorney General or appropriate Commonwealth's or county attorney for prosecution, may seek judicial review of the action within thirty (30) days after the date of the action.

(9)[~~(7)~~] If judicial review is sought of any action of the registry relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

SECTION 5. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Any person making an independent expenditure shall report those expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided or using a format approved by the registry, and the person shall sign a statement on the form that:

(1) The expenditure was an actual independent expenditure;

(2) The expenditure was made without any coordination, consultation, or cooperation with any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them; and

(3) The expenditure was not made in concert with, or at the request or suggestion of, any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them.

SECTION 6. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election;

(f) A contribution from any person, permanent committee, or contributing organization in any one (1) election of more than one thousand dollars ($1,000) for any candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf. However, a school board candidate, or anyone acting on his or her behalf, shall not accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election; or

(g) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, slate of candidates, candidate campaign committee, or anyone on their behalf.

(2) A candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(3) A candidate, slate of candidates, or candidate campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or candidate campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with Section 32 of this Act.

(4) Candidates who loan money to their candidate campaign committees or a slate of candidates who loan money to their candidate campaign committees shall not have more than one hundred eighty (180) days following an election to recoup such loans under the provisions of subsection (12) of this section.

(5) A candidate, slate of candidates, or candidate campaign committee may accept contributions for the regular election prior to the primary election only if such contributions are clearly designated as regular election contributions and attributed to the regular election.

(6) A candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf, shall not solicit a

contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(7) A candidate, slate of candidates, or candidate campaign committee that accepts contributions from a permanent committee shall conform to the following:

(a) Contributions shall not, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate, slate of candidates, or candidate campaign committee in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount;

(b) The percentage of the total contributions or dollar amounts of contributions shall be calculated as of the day of each election; and

(c) Funds in a candidate's, slate of candidates', or candidate campaign committee's campaign account that are carried forward from one (1) election to another shall not be considered in calculating the percentage requirements in paragraph (a) of this subsection.

(8) A candidate, slate of candidates, or candidate campaign committee may, without penalty, not later than sixty (60) days following the election:

(a) Contribute funds to his, her, or their campaign account so as not to exceed the permitted percentage or dollar amount of contributions accepted from permanent committees in accordance with paragraph (a) of subsection (7) of this section; or

(b) Refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(9) The provisions of subsections (7) and (8) of this section regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(10) The provisions of subsections (7) and (8) of this section regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from caucus campaign committees.

(11) A candidate, slate of candidates, or candidate campaign committee shall not accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account.

(12) A candidate, slate of candidates, or candidate campaign committee may accept contributions one hundred eighty (180) days following an election for the sole purpose of retiring net debts outstanding, provided that the:

(a) Contribution is expressly designated for that election;

(b) Contributions do not exceed the contributor's limit for the designated election; and

(c) Campaign has net debts outstanding for the designated election on the day it receives the contribution.

(13) Candidates, slates of candidates, and candidate campaign committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121 without penalty.

(14) Candidates, slates of candidates, and candidate campaign committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 7. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by caucus campaign committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or slate of candidates to contribute to religious, civic, or charitable groups.

(2) A caucus campaign committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a caucus campaign committee or anyone acting on its behalf.

(3) A caucus campaign committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(4) A caucus campaign committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(5) Caucus campaign committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(6) Caucus campaign committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 8. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by political issues committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or slate of candidates to contribute to religious, civic, or charitable groups.

(2) A political issues committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a political issues committee or anyone acting on its behalf.

(3) A political issues committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(4) Political issues committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(5) Political issues committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 9. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by permanent committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or a slate of candidates to contribute to religious, civic, or charitable groups.

(2) A permanent committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any

one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a permanent committee or anyone acting on its behalf.

(3) A permanent committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(4) A permanent committee shall not make a contribution of more than one thousand dollars ($1,000) to any candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf. However, a permanent committee shall not make a contribution of more than two hundred dollars ($200) to any one (1) school board candidate or his or her candidate campaign committee, or anyone acting on their behalf, in any one (1) election.

(5) Permanent committees affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of this section.

(6) A permanent committee shall not contribute funds to another permanent committee for the purpose of circumventing the contribution limits of this section.

(7) A permanent committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(8) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee, insofar as its actions can be deemed not in violation of KRS 121.025.

(9) Permanent committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(10) Permanent committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 10. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or a slate of candidates to contribute to religious, civic, or charitable groups.

(2) An executive committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to an executive committee or anyone acting on its behalf.

(3) An executive committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(4) An executive committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(5) Executive committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(6) Executive committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

(7) State executive committees whose gubernatorial candidate received either the most or second most number of votes in the last preceding regular election for Governor shall be permitted to establish a building account. These two (2) executive committees may accept contributions in any amount from any person or legal entity, except corporations, and such contributions shall be reported to the registry in the course of the executive committees' regular reporting duties.

(8) Any person or entity that makes a contribution pursuant to subsection (7) of this section in excess of five thousand dollars ($5,000) in any calendar year to an executive committee building fund shall not be eligible for any no-bid contract issued by the Commonwealth for the four (4) years immediately following the date of the contribution which exceeded the five thousand dollar ($5,000) threshold.

SECTION 11. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) An inaugural committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to an inaugural committee or anyone acting on its behalf.

(2) An inaugural committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(3) An inaugural committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(4) Inaugural committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(5) Inaugural committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 12. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not make a currency contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, slate of candidates, or committee, or anyone acting on their behalf.

(2) A person shall not make a contribution of more than one thousand dollars ($1,000) to any candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf. However, a person shall not make a contribution of more than one hundred dollars ($100) to any one (1) school board candidate or his or her candidate campaign committee, or to anyone acting on their behalf, in any one (1) election.

(3) A person shall not contribute funds to a permanent committee for the purpose of circumventing the contribution limits of this section.

(4) A person shall not contribute more than one thousand five hundred dollars ($1,500) to all permanent committees in the aggregate, in any one (1) year.

(5) A person shall not contribute in the aggregate, in any one (1) year more than:

(a) Two thousand five hundred dollars ($2,500) to the state executive committee of a political party;

(b) Two thousand five hundred dollars ($2,500) to the subdivisions and affiliates of the state executive committee of a political party; and

(c) Two thousand five hundred dollars ($2,500) to a caucus campaign committee.

(6) A person shall not make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, slate of candidates, or committee, or anyone acting on their behalf.

SECTION 13. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A candidate, slate of candidates, committee, referendum committee, or person shall be permitted to utilize on-line credit and debit card contributions, expenditures, and disbursements; electronic transfer contributions, expenditures, and disbursements; and other electronic transactions, including but not limited to contributions, receipts, expenditures, and other disbursements under the following conditions:

(a) All credit and debit card and electronic transfer contributions shall be itemized;

(b) All credit and debit card and electronic transfer expenditures shall be itemized;

(c) All credit and debit card and electronic transfer disbursements shall be itemized;

(d) All credit and debit card and electronic transfer independent expenditures made in accordance with Section 2 of this Act shall be itemized; and

(e) The payor and the payee shall be clearly identified.

(2) The registry shall adopt reporting forms that adequately reflect credit and debit card contributions, expenditures, and disbursements; electronic transfer contributions, expenditures, and disbursements; and other electronic transactions including but not limited to contributions, receipts, expenditures, and other disbursements.

(3) The registry shall promulgate administrative regulations to implement this section.

Section 14. KRS 121.160 is amended to read as follows:

(1) As part of the filing papers each candidate or slate of candidates shall, on a duplicate form prescribed and furnished by the registry, designate a campaign treasurer to act as their agent at the time and at the office with which they file as a candidate or slate of candidates and until this requirement is met the candidate or slate of candidates shall be listed as their own treasurer and accountable as such. The candidate or slate of candidates may appoint themselves or any registered voter in Kentucky as the campaign treasurer. The office with which the candidate or slate of candidates is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's or slate's campaign treasurer and shall attach the original to the candidate's or slate's filing papers. The office with which the candidate or slate of candidates files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank in which the primary campaign account shall be maintained and deposit all contributions in that account;

(b) ***Deposit all contributions in the campaign account within ten (10) days after the contribution is in the possession of the treasurer;***

(c) Keep detailed and exact accounts of:

1. Contributions of any amount made by a permanent committee, by name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. Contributions in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, by the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he ***or she*** is doing business, and the amount contributed by each contributor; and

3. Contributions in excess of one hundred dollars ($100) made to any candidate other than those specified in subparagraph 2., by name, address, age if under legal voting age, date of the contribution, amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he ***or she*** is doing business shall be listed. The occupation listed for the contributor shall be specific. A general classification, such as ***"businessperson"***[~~"businessman"~~], shall be insufficient;

(d)[~~(c)~~]Make or authorize all expenditures on behalf of a candidate or slate of candidates. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and occupation of every person or firm to whom made, and shall list the date and amount of the expenditure and the treasurer shall keep a receipted bill for each;

(e)[~~(d)~~]Maintain all ***records, including but not limited to bank statements, deposit slips, contribution check photocopies,***

contribution cards, proof of electronic financial transactions that do not have traditional paper records, disbursement invoices, and any and all records pertaining to the campaign,[~~receipted bills and accounts required by this section~~] for a period of six (6) years from the date ***of the election to which the records pertain, but not to exceed six (6) years from the date the record was filed***[~~he files his last report under KRS 121.180(3)(b)1.~~]; and

(f)[~~(e)~~] Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate or slate of candidates may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate or slate of candidates shall***,*** within three (3) days after receiving notice[~~ thereof by certified mail~~], appoint a successor and shall file his ***or her*** name and address with the registry. The candidate[~~,~~] or slate shall be accountable as their own campaign treasurer if they fail to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate or slate of candidates, but all reports shall be made separately for each individual candidate or slate.

(6) The candidate or slate of candidates may pay a campaign treasurer a salary for his ***or her*** services which shall be considered a campaign expense and shall comply with the reporting provisions of ***Section 27 of this Act***[~~KRS 121.180~~] and administrative regulations promulgated by the registry.

(7) A contribution shall not be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee.

Section 15. KRS 121.170 is amended to read as follows:

(1) Any committee ***or referendum committee***, except a federally-registered[~~ out-of-state~~] permanent committee, organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry; except that no ***candidate*** campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a joint notification and declaration by the slate of candidates ***in accordance with***[~~pursuant to~~] KRS 118.125 and 118.127. No entity which is excluded from the definition of "***candidate*** campaign committee" established in ***Section 1 of this Act***[~~KRS 121.015(3)(a)~~] shall be required to register as a committee with the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents shall register with the registry when he ***or she*** raises in excess of three thousand dollars ($3,000) in any one (1) election for the ***candidate*** campaign committee by filing official notice giving his ***or her*** name, address, occupation, employer or, if he ***or she*** is self-employed, the name under which he ***or she*** is doing business, and all candidates or slates of candidates for whom he ***or she*** is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of ***Sections 27, 28, and 29 of this Act***[~~KRS 121.180(3), (4), and (5)~~].

(3) All provisions of KRS 121.160 governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered[~~ out-of-state~~] permanent committee, and a person acting as a campaign fundraiser. In case of the death, resignation, or removal of a campaign treasurer for a permanent committee***, caucus campaign committee,*** or executive committee, the ***chairperson***[~~chairman~~] of the permanent committee***, caucus campaign committee,*** or executive committee shall, within three (3) days after receiving notice of the vacancy[~~ by certified mail~~], appoint a successor as treasurer for the committee and file the name and address of the successor with the registry. The ***chairperson***[~~chairman~~] of the permanent committee***, caucus campaign committee,*** or executive committee shall be accountable as the treasurer for the committee if the ***chairperson***[~~chairman~~] fails to meet this filing requirement.

(4) The ***chairperson***[~~chairman~~] of a committee and the campaign treasurer shall be separate persons.

(5) Any federally-registered[~~ out-of-state~~] permanent committee that contributes to a Kentucky candidate or a slate of candidates shall:

(a) File with the registry a copy ***of the cover and summary pages*** of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) ***File with the registry an itemized expenditures schedule detailing any contribution***[~~File with the registry a copy of the Federal Election Commission finance report when a contribution is~~] made to a Kentucky candidate or a slate of candidates; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate or to any slate of candidates for any office in this Commonwealth***, as provided in subsection (4) of Section 9 of this Act***.

(6) Notwithstanding any provision of law to the contrary, a contribution made by a federally-registered permanent committee to any candidate or to any slate of candidates for any office in this Commonwealth that complies with the provisions of 2 U.S.C. sec. 441b, 11 C.F.R. sec. 104.10, 11 C.F.R. sec. 106.6, and 11 C.F.R. sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates or slates of candidates.

(7) ***Any permanent committee, except a federally registered permanent committee, organized under this chapter shall, at the time of registration with the registry as described in subsection (1) of this section, provide a list of its affiliation with other permanent committees. Changes in such affiliations shall also be reported in writing to the registry on an ongoing basis.***

(8) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be prohibited.

Section 16. KRS 121.175 is amended to read as follows:

(1) ***A***[~~No~~] candidate, ***candidate campaign*** committee, ***referendum committee, inaugural committee, or political issues committee***[~~or contributing organization~~] shall ***not*** permit funds in a campaign account to be expended for any purpose other than for ***an expenditure as defined in Section 1 of this Act.***[~~allowable campaign expenditures. "Allowable campaign expenditures" means expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot and includes, but is not limited to, expenditures for staff salaries, gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally, advertising, office space, necessary travel, campaign paraphernalia, purchases of advertisements in athletic and scholastic publications, communications with constituents or prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the campaign. "Allowable campaign expenditures" does not include~~]

(2) Expenditures of funds in a campaign account for any purpose made unlawful by other provisions of the Kentucky Revised Statutes or which would bestow a private pecuniary benefit ***are prohibited, including but not limited to:***[~~, except for~~] payment of the reasonable value of goods and services provided ***to***[~~upon~~] a candidate, member of the candidate's family, ***candidate campaign*** committee, ***referendum committee, inaugural committee, or political issues committee***[~~or contributing organization~~], or any of their employees, paid or unpaid, including:

(a) Tickets to an event which is unrelated to a political campaign or candidacy;

(b) Items of personal property for distribution to prospective voters except items bearing the name, likeness, or logo of a candidate or a campaign-related communication;

(c) Expenditures to promote or oppose a candidacy for a leadership position in a governmental, professional, or political organization, or other entity; and

(d) Equipment or appliances the primary use of which is for purposes outside of the campaign.

(3) The provisions of KRS 121.190 notwithstanding, a candidate shall not be required to include a disclaimer on campaign stationery purchased with funds from his ***or her*** campaign account.

(4) A member of the General Assembly may utilize funds in his ***or her*** campaign account to:

(a) Purchase admission tickets for political party functions and caucus campaign committee functions***;***[~~,~~]

(b) [~~To~~]Purchase items with a value of not in excess of one hundred dollars ($100) for donation to a political party or caucus campaign committee for auctions and fundraisers***;***[~~,~~] and

(c) [~~To~~]Participate in or support other events sponsored by a political party or caucus campaign committee.

A member of the General Assembly may make allowable campaign expenditures in both election years and nonelection years.

(5)[~~(2)~~] [~~By December 31, 1993, ~~]The registry shall promulgate administrative regulations to implement and enforce the provisions of ***subsections***[~~subsection~~] (1) ***and (2) of this section***.

(6)[~~(3)~~] In lieu of the penalties provided in KRS 121.140 and 121.990 for a violation of this section, the registry may, after hearing:

(a) For a violation which was not committed knowingly, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000); and

(b) For a violation which was committed knowingly, in addition to referring the matter for criminal prosecution, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000).

SECTION 17. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any candidate or slate of candidates shall be exempt from filing any finance reports if the candidate or slate of candidates files a form prescribed and furnished by the registry stating that contributions shall not be accepted or expended in excess of five thousand dollars ($5,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot.

(2) A candidate or slate of candidates shall:

(a) File a separate form for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate or slate of candidates indicates on a request for exemption that the request will be applicable to more than one (1) election; and

(b) File the form with the same office where a candidate or slate of candidates files nomination papers.

(3) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers. Except as provided in Section 19 of this Act, a candidate or slate of candidates shall be bound by the terms of the exemption unless it is rescinded in writing not later than fifteen (15) days after the filing deadline.

(4) For a runoff primary election, a slate of candidates shall file a request for exemption not later than five (5) days after the date of the preceding primary election. A slate of candidates shall be bound by the terms of the exemption unless it is rescinded in writing not later than ten (10) days after the date of the preceding primary election.

(5) For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election or runoff primary, if one is held, except as provided in Section 19 of this Act.

(6) For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election. A candidate or slate of candidates shall be bound by the terms of the exemption unless it is rescinded in writing not later than twenty-five (25) days after the date when the nomination for a special election is made.

(7) A candidate or a slate of candidates that rescinds a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of five thousand dollars ($5,000) in an election.

SECTION 18. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A referendum committee shall register with the registry and report all contributions and expenditures in accordance with subsection (2) of this section if the referendum committee raises or expends:

(a) Five thousand dollars ($5,000) or more to secure the placement of the question on the ballot in an area greater in size than one (1) county; or

(b) Two thousand five hundred dollars ($2,500) or more to secure the placement of the question on the ballot in an area in size equal to or less than one (1) county.

(2) All referendum committees shall file financial reports with the registry at the end of the first calendar quarter in which registration of the referendum committee occurs, and each calendar quarter thereafter, until such time as the referendum committee terminates. Reports shall cover all transactions through the last day of each calendar quarter and shall be due five (5) days after the reporting period covered.

(3) A referendum committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a referendum committee or anyone acting on its behalf.

(4) A referendum committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(5) Referendum committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

(6) Except as provided in Section 34 of this Act, the solicitation from and contributions by referendum committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited.

(7) Nothing in this chapter shall prohibit a referendum committee from transferring the unexpended balance at hand, if any, at the time of termination, to a political issues committee formed to advocate or oppose the same constitutional amendment or public question appearing on the ballot.

(8) Referendum committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

SECTION 19. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A candidate for any city or county office or for any school board office who is exempted from campaign finance reporting requirements in accordance with Section 17 of this Act, but who accepts contributions or makes expenditures in excess of the exempted amount in any one (1) election, shall file all applicable reports required for the remainder of that election, based on the amount of contributions or expenditures the candidate accepts or receives in that election.

(2) The filing of applicable required reports by such a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

SECTION 20. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any candidate or slate of candidates subject to an August filing deadline who intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline. Except as provided in Section 19 of this Act, the candidate or slate of candidates shall be bound by the terms of the request for exemption unless it is rescinded in writing not later than fifteen (15) days after the filing deadline.

(2) A candidate or slate of candidates subject to subsection (1) of this section shall have the same rescission rights as those provided in Section 17 of this Act.

(3) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the rescission rights provided in Section 17 of this Act if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates.

(4) Except as provided in Section 19 of this Act, a candidate or slate of candidates subject to subsection (3) of this section shall comply with the deadline for rescission provided in Section 17 of this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 19 of this Act, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes, may rescind the request for exemption by exercising the rescission rights provided in Section 17 of this Act.

(2) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes. If the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in Section 19 of this Act , may petition the registry to permit the candidate or slate of candidates to exercise the rescission rights provided in Section 17 of this Act.

SECTION 22. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

If the opponent of a candidate or slate of candidates is replaced due to his or her withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in Section 19 of this Act, may exercise the rescission rights provided in Section 17 of this Act not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

SECTION 23. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under Section 17 of this Act and shall be bound by its terms unless it is rescinded in writing not later than

fifteen (15) days after the filing deadline for the regular or special election.

(2) A person intending to be a write-in candidate who rescinds a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of five thousand dollars ($5,000) in any one (1) election.

(3) Except as provided in Section 19 of this Act, a person intending to be a write-in candidate who rescinds a request for exemption shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.

SECTION 24. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 19 of this Act, a candidate campaign committee that has filed a request for exemption shall be bound by the terms of the request for exemption unless it is rescinded in a timely manner and no new request for exemption has been executed.

SECTION 25. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 19 of this Act, any candidate, candidate campaign committee, or slate of candidates that is exempt from filing campaign finance reports in accordance with Section 17, subsections (1) and (2) of Section 20, or Section 23 of this Act and accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements. In lieu of other penalties prescribed by law, such candidate, candidate campaign committee, or slate of candidates shall pay a fine of not more than five hundred dollars ($500) plus the amount that was exceeded by the spending limit.

(2) Except as provided in Section 19 of this Act, candidates, slates of candidates, or candidate campaign committees that are exempt from filing campaign finance reports in accordance with Section 17, subsections (1) and (2) of Section 20, or Section 23 of this Act and knowingly accept contributions or make expenditures, or whose campaign treasurer knowingly accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

SECTION 26. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) (a) State and county executive committees and caucus campaign committees shall make a full report upon a prescribed form to the registry of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

3. The total amount of currency contributions received during the reporting period; and

4. A complete statement of expenditures authorized, incurred, or made, including the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25) and the amount, date, and purpose of each expenditure.

(b) Reports shall be due within five (5) days after the thirtieth day following:

1. The primary election, and shall include all previous contributions and expenditures since the last report;

2. A runoff primary election if slates of candidates of that party participate, and shall include all previous contributions and expenditures since the last report; and

3. A regular election, and shall include all previous contributions and expenditures since the last report.

(2) If an individual gives a reportable contribution to a caucus campaign committee or to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required by this subsection and shall be due by the registry within five (5) days after the thirtieth day following each regular election.

SECTION 27. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except for candidates, slates of candidates, or candidate campaign committees exempted from reporting requirements in accordance with Section 17, 20, or 23 of this Act, each campaign treasurer of a candidate, slate of candidates, or candidate campaign committee who accepts contributions, expends, or expects to accept contributions or expend or contracts to expend more than five thousand dollars ($5,000) in any one (1) election, and each fundraiser who secures

contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a candidate campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he or she is doing business, and the amount contributed by each contributor;

(c) For each contribution in excess of one hundred dollars ($100) made to any candidate or candidate campaign committee other than those specified in paragraph (b) of this subsection, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

(d) The total amount of currency contributions received during the reporting period; and

(e) A complete statement of all expenditures authorized, incurred, or made, including the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(2) Reports of all candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall be made on forms prescribed by the registry as follows:

(a) Candidates as defined in Section 1 of this Act, slates of candidates, candidate campaign committees, political issues committees, and fundraisers that register in the year before the year an election in which the candidate, slate of candidates, or public question shall appear on the ballot shall file financial reports with the registry the first calendar quarter in which persons become candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, slates of candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place. All financial reports required by this subsection shall cover all transactions through the last day of each calendar quarter and shall be due by the registry five (5) days after the reporting period covered;

(b) All candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall make reports on the sixtieth day preceding the date of the regular election, including all previous contributions and expenditures since the last report. This report shall reflect all transactions made through the sixtieth day and shall be due by the registry five (5) days after the reporting period covered;

(c) All candidates and slates of candidates running for statewide office, and the candidate campaign committees and registered fundraisers of such candidates and slates of candidates, shall make reports on the sixtieth day preceding the date of the primary, including all previous contributions and expenditures since the last report. This report shall reflect all transactions made through the sixtieth day and shall be due by the registry five (5) days after the reporting period covered;

(d) All candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall make reports on the thirtieth day preceding the date of the primary and the regular election, including all previous contributions and expenditures since the last report. This report shall reflect all transactions made through the thirtieth day preceding the date of the election and shall be due by the registry five (5) days after the reporting period covered; and

(e) All candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the primary and the regular election. This report shall reflect all transactions made through the fifteenth day, including all previous contributions and expenditures since the last report, and shall be due by the registry five (5) days after the reporting period covered.

SECTION 28. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Except for candidates and slates of candidates exempted in accordance with Section 17 of this Act, all candidates, regardless of funds received or expended, candidate campaign committees, political issues committees, and registered fundraisers shall make post-election reports on the thirtieth day following the date of the election. This report shall reflect all transactions made through the thirtieth day, including all previous contributions and expenditures since the last report, and shall be due by the registry five (5) days after the reporting period covered.

SECTION 29. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) In making the reports set forth under Section 27 of this Act, the total gross receipts from each of the following categories shall be listed:

(a) Proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events;

(b) Mass collections made at the events; and

(c) Sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials.

(2) If any individual purchase or the aggregate purchases of any item enumerated in subsection (1) of this section, from a candidate or slate of candidates for a statewide-elected state office or a candidate campaign committee for a candidate or slate of candidates for a statewide-elected state office, exceeds one hundred dollars ($100), the purchaser shall be identified by:

(a) Name;

(b) Address;

(c) Age, if less than the legal voting age;

(d) Occupation;

(e) Employer;

(f) Employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he or she is doing business; and

(g) Amount of the purchase.

(3) If any individual purchase or the aggregate purchases of any item enumerated in subsection (1) of this section, from any candidate or candidate campaign committee other than a candidate or slate of candidates for a statewide-elected state office or candidate campaign committee for a candidate or slate of candidates for a statewide-elected state office, exceeds one hundred dollars ($100), the purchaser shall be identified by:

(a) Name;

(b) Address;

(c) Age, if less than the legal voting age;

(d) Occupation;

(e) Employer;

(f) If the purchaser is self-employed, the name under which he or she is doing business; and

(g) Amount of the purchase.

(4) The lists required in subsections (2) and (3) of this section shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years from the date of the election to which the records pertain, but not to exceed six (6) years from the date the record was filed.

SECTION 30. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Each permanent committee, except a federally registered permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee:

1. The name and business address of the permanent committee;

2. The date of the contribution;

3. The amount contributed; and

4. A description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100):

1. The full name, address, and age if under the legal voting age of each contributor;

2. The date of the contribution;

3. The amount of the contribution;

4. The employer and occupation of each contributor; and

5. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

(c) An aggregate amount of currency contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures.

(2) The report required in subsection (1) of this section shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter in which the committee has registered with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. This report shall reflect all previous contributions and expenditures since the last report, and shall be due

by the registry five (5) days after the reporting period covered.

(3) A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made.

SECTION 31. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) If the final report of a candidate, candidate campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental report of contributions and expenditures not more than thirty (30) days after the deadline for filing the final report.

(2) Subsequent supplemental reports shall cover all transactions through December 31 and shall be filed annually, to be due by the registry not later than ten (10) days after December 31 of each year. Such subsequent supplemental reports shall be filed until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficits, or until the year before the candidate or a slate of candidates seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed. In such a case the candidate or a slate of candidates shall file the supplemental annual report not later than ten (10) days after December 31 of that year.

(3) All contributions shall be subject to Sections 5, 6, 7, 8, 9, 10, 11, 12, and 13 of this Act.

SECTION 32. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) All reports filed under KRS Chapter 121 shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(2) A duplicate paper copy of each report filed either on paper or electronically with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside.

(3) County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

SECTION 33. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

A candidate or slate of candidates is relieved of the duty to personally file reports and keep records of receipts and expenditures if the candidate or slate of candidates states in writing or on forms provided by the registry that:

(1) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of its principal candidate campaign committee without expending any of the proceeds thereof;

(2) No contributions shall be commingled with the candidate's or slate of candidates' personal funds or accounts;

(3) Contributions received by check, electronic transfer, credit card, money order, or other written instrument shall be endorsed or submitted directly to the candidate campaign committee and shall not be cashed or redeemed by the candidate;

(4) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this subsection does not preclude a candidate or slate of candidates from making an expenditure from personal funds to the designated principal candidate campaign committee, which shall be reported by the committee as a contribution received; and

(5) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

SECTION 34. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A candidate, slate of candidates, candidate campaign committee, referendum committee, or political issues committee shall not use or permit the use of contributions or funds solicited or received to:

(a) Further the candidacy of the candidate for a different public office;

(b) Support or oppose a different public issue; or

(c) Further the candidacy of any other candidate or slate of candidates for public office.

(2) A candidate or slate of candidates may use funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair.

(3) A candidate, slate of candidates, candidate campaign committee, referendum committee, or political issues committee shall deem any funds or contributions solicited or received to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot.

(4) A candidate, slate of candidates, candidate campaign committee, referendum committee, or political issues committee shall dispose of any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue, the candidacy of a person, or a slate of candidates, in whole or in part, at the election of the

candidate, slate of candidates, or committee, after the election is over as follows:

(a) Funds may escheat to the State Treasury;

(b) Funds may be returned pro rata to all contributors;

(c) In the case of a partisan candidate or slate of candidates, funds may be transferred to a caucus campaign committee or to the state or county executive committee of the political party of which the candidate or slate of candidates is a member;

(d) Funds may be retained by a candidate, slate of candidates, committee, or official to further the same public issue or to seek election to the same office; or

(e) Funds may be donated to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, 26 U.S.C. sec. 501(c)(3), as amended, and any successor thereto.

SECTION 35. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public, who receives funds for the purchase of advertising services or material, shall file with the registry:

(a) A copy of the material or communication purchased which supports or opposes any slate of candidates or committee;

(b) A copy of the receipt for the funds paid;

(c) The name and address of each purchaser; and

(d) The source of the funds for the purchase if different than the purchaser.

(2) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry:

(a) A copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission; and

(b) A cover letter from the manager of the station or network or the manager's designee.

(3) All information required to be reported by subsections (1) and (2) of this section shall be due by the registry not later than the thirtieth day following the primary, runoff primary, and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.

(4) The provisions of this section shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

(5) Notwithstanding KRS 121.990, penalties for violation of this section shall be assessed in accordance with the provisions of Section 4 of this Act.

SECTION 36. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Filers specified in Section 2 of this Act shall not be required to file campaign finance reports in paper format with the registry, but shall file a paper copy with the county clerk in the county where the candidate resides.

(2) Filers not required to file reports electronically are strongly encouraged to do so voluntarily.

(3) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.

(4) All electronic or on-line filers shall affirm and certify that the report filed with the registry is complete and accurate.

(5) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.

(6) The registry may require all filers exercising the option of electronic filing by accepting filer-side software free of charge to agree to use the electronic filing system for the relevant election or elections for which the software was accepted.

SECTION 37. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

The registry shall promulgate administrative regulations to establish a de minimus standard, under which a regulated entity whose report contained a minor discrepancy would not be obligated to submit an amended report addressing the error until the next regularly scheduled report is due.

Section 38. KRS 121.190 is amended to read as follows:

(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots, and paid-for television or radio announcements which expressly advocate the election or defeat of a clearly identified candidate, slate of candidates, or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the individual or committee which paid for the communication; except that if paid for by a candidate, slate of candidates, or *candidate* campaign committee, it shall be identified only by the words "paid for by" followed by the name of the candidate, slate of candidates, or *candidate* campaign committee, whichever is applicable.[

~~For television and radio broadcasts, compliance with Federal Communications Commission regulations regarding sponsored programs and broadcasts by candidates for public office shall be considered compliance with this section.~~]

(2) The management of newspapers and magazines shall keep a one (1) year record of all statements, articles, or advertisements referred to in subsection (1) of this section, that appear in their publications, however, nothing in subsection (1) of this section shall be construed to require editors or editorial writers of newspapers and magazines to identify themselves in the manner therein required with any article or editorial written by them as part of their duties as an employee or employer.

(3) Subsection (1) of this section shall apply to the extent that it does not conflict with the Federal Communications Act of 1934, 47 U.S.C. secs. 315 and 317. A radio or television station shall not be held responsible for the content of communications pursuant to subsection (1) of this section.

Section 39. KRS 121.210 is amended to read as follows:

(1) Each candidate may designate one (1) central campaign committee. If so designated, the central campaign committee shall receive all reports made by any other ***candidate*** campaign committee authorized in writing by the candidate to accept contributions or make expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his ***or her*** central campaign committee.

(2) Each statement or report which an authorized committee is required to file with or furnish to the registry shall, if that committee is not a central campaign committee, be furnished instead to the central campaign committee for the candidate on whose behalf that committee is, or is established for the purpose of, accepting contributions or making expenditures.

(3) Each central campaign committee shall receive all reports and statements filed with or furnished to it by other authorized committees, and shall consolidate and furnish the reports and statements to the registry, together with its own reports and statements as prescribed by ***this chapter***[~~KRS 121.180~~].

(4) ***Candidate*** campaign committees not authorized by, or which have been disavowed by the candidate, shall not include the name of the candidate as part of the committee's name and shall file the reports and statements with the registry as prescribed in ***this chapter***[~~KRS 121.180~~].

Section 40. KRS 121.220 is amended to read as follows:

(1) Each candidate, slate of candidates, ***referendum committee,*** and[~~each~~] committee***, except federally registered permanent committees,*** shall, before receiving any contributions or expending any money, ***segregate primary election funds from regular election funds and*** designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate, slate of candidates, ***referendum committee,*** or committee. The candidate, slate of candidates, ***referendum committee,*** or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate, slate of candidates, ***referendum committee,*** or committee participates. ***Segregation of primary election funds from regular election funds shall be achieved through bookkeeping.*** Deputy campaign treasurers may make expenditures from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate, slate of candidates, ***referendum committee,*** or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate, slate of candidates, ***referendum committee,*** or committee files the name of ***the***[~~his or its~~] campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate, slate of candidates, ***referendum committee,*** or committee***, except federally registered permanent committees,*** shall be deposited in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." For each deposit, the campaign treasurer or deputy campaign treasurer shall retain a statement showing the name and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee for each contribution of any amount made by a permanent committee, and the full name, address, employer of each other contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he ***or she*** is doing business, and occupation of each contributor of more than one hundred dollars ($100) and the amount contributed. ***Currency***[~~Cash~~] contributions shall be accompanied by the same receipt form.

Section 41. KRS 121.230 is amended to read as follows:

(1) No state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall use ***the***[~~such~~] funds other than in support of the party's candidates in a ***regular***[~~general~~] election and for the administrative costs of maintaining a political party headquarters.

(2) Each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit such funds in a bank account and shall report the amount of such funds received as a separate entry on its committee report. All expenditures from such remitted funds shall be by check. A copy of each canceled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the state or local governing authority of the political party for a period of not less than four (4) years.

(3) The designated official of each state or local governing authority of a political party to which funds are remitted under

KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance, and expenditures of the funds so remitted. In addition, the official shall, within thirty (30) days after each ***regular***[~~general~~] election, forward to the Registry of Election Finance a report of:

(a) The unexpended and unobligated balance of such remitted funds; and

(b) An itemized listing of each expenditure authorized, incurred or made from such remitted funds, indicating the amount, date, and purpose of each expenditure, regardless of the amount, and the name, address, and occupation of each person to whom an expenditure of ***twenty-five dollars ($25)***[~~fifty dollars ($50)~~] or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(5) The Registry of Election Finance may annually audit the accounts and records of receipts and expenditures of funds in the amount of one thousand five hundred dollars ($1,500) or less that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall annually audit the accounts and records of receipts and expenditures of funds in the amount of more than one thousand five hundred dollars ($1,500) that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall report the results of each audit conducted to the General Assembly. In the course of such audits, the registry or its authorized agents may ascertain the amount of such remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the registry any of the information required under this section.

Section 42. KRS 121.056 is amended to read as follows:

(1) No person who contributes more than the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has contributed more than the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office or any entity in which such a person has a substantial interest shall have any contract with the Commonwealth of Kentucky during the term of office following the campaign in which the contributions shall be made unless the contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of the entity or the person and his immediate family together own or control ten percent (10%) or more of the entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election as provided by those subsections, shall apply to a person who makes a total contribution in excess of the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office as provided by this subsection.

Section 43. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, or 40 of this Act, KRS***[~~121.150 to 121.230,~~] 121.310(1), or 121.320 shall, for each offense, be guilty of a Class D felony. Violations of ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, or 41 of this Act***[~~KRS 121.150 to 121.230~~] shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication in violation of KRS 121.190(1).

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, or 40 of this Act***[~~KRS 121.150 to 121.220~~], or whose campaign treasurer knowingly violates any provision of ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, or 40 of this Act***[~~KRS 121.150 to 121.220~~], with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120***, Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, or 41 of this Act***[~~to 121.230~~].

(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter. In the event he ***or she*** fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of ***Section 6, 7, 8, 9, 10, 11, or 12 of this Act***[~~KRS 121.150(12)~~] shall, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he ***or she*** continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant, forfeit all benefits which he ***or she*** would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel ***in accordance with***[~~pursuant to~~] KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until ***the***[~~such~~] penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he ***or she*** has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his ***or her*** office shall be declared vacant and he ***or she*** shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

Section 44. KRS 61.710 is amended to read as follows:

[~~(1)~~]KRS 61.710 to 61.780 apply to Justices and Judges of the Court of Justice, Commonwealth's attorneys, and all candidates for all those offices. KRS 61.710 to 61.780 also apply to a person appointed to a vacancy in an unexpired term of any office mentioned above.

[~~(2) KRS 61.710 to 61.780 also apply to:~~

~~(a) Any employee of a daily newspaper of 50,000 or more circulation published in Kentucky who either orally, or in writing contributes to the editorial policy of the newspaper; and~~

~~(b) Any employee of a radio or television station that is owned in common with a newspaper described above who directly or indirectly contributes to the editorial policy of the station.~~]

Section 45. KRS 23A.070 is amended to read as follows:

(1) The Thirtieth Judicial Circuit is entitled to twenty-three (23) judges and shall have twenty-three (23) numbered divisions of the Circuit Court. The Circuit Court divisions designated for family court shall be consecutively numbered beginning with the Thirtieth Judicial Circuit, First Division, Family Court. All other Circuit Court divisions shall be consecutively numbered beginning with the Thirtieth Judicial Circuit, First Division, and shall appear on the ballot prior to the designated family court divisions. These designations shall apply for election purposes and all other purposes.

(2) Notwithstanding any provision of ***Section 34 of this Act***[~~KRS 121.180(10)~~] to the contrary, a judicial candidate whose division number is altered pursuant to subsection (1) of this section subsequent to the establishment of a campaign account with the Kentucky Registry of Election Finance may expend the funds contained in the established account for election to the judicial division to which they were elected or appointed.

Section 46. The following KRS section is repealed:

121.015 Definitions for chapter.

121.150 Campaign contribution and loan restrictions and expenditure limitations.

121.180 Reports required of committees and treasurers -- Exemptions -- Administrative fee -- Exceptions -- Use of campaign funds -- Disposition of unexpended campaign funds -- Reports of purveyors of communications and advertising services -- Electronic reporting.

Section 47. This Act takes effect November 7, 2007.

The House Committee Substitute to **SB 159** is as follows:

SB 159, AN ACT relating to the regulation of campaigns and elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Campaign account" or "campaign depository" means the campaign account of a candidate or slate of candidates for public office into which all contributions, including the candidate's own money, shall be deposited and from which all expenditures shall be made;

(2) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his or her consent for any other person to receive contributions or make expenditures with a view to bringing about his or her nomination or election to public office, except federal office;

(3) "Committee" includes the following:

(a) "Candidate campaign committee," which means a committee consisting of at least a campaign treasurer and a campaign chairperson who receive contributions and make expenditures to support a specific candidate or slate of candidates for nomination or election to any state, county, city, or district office;

(b) "Caucus campaign committee," which means members of one (1) of the following caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election, or a committee as defined in this subsection:

1. House Democratic caucus campaign committee;

2. House Republican caucus campaign committee;

3. Senate Democratic caucus campaign committee; and

4. Senate Republican caucus campaign committee.

Caucus campaign committees shall operate independently from executive committees;

(c) "Executive committee," which means a state or county political party as defined in KRS Chapter 118, or an active congressional district;

(d) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(e) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a candidate campaign committee, referendum committee, political issues committee, inaugural committee, caucus campaign committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, and which functions on a regular basis throughout the year; and

(f) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(4) "Contributing organization" means a group which merely contributes to candidates, slates of candidates, candidate campaign committees, caucus campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value to a candidate, his or her agent, a slate of candidates, its authorized agent, a committee, referendum committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, referendum committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his or her agent, a slate of candidates, its agent, a committee, referendum committee, or a contributing organization, exceeds the contribution limits provided in this chapter;

2. Payment by any person other than the candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, referendum committee, or a contributing organization of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, referendum committee, or contributing organization, or for inauguration activities;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, referendum committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

4. Payment by any person other than a candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, referendum committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, referendum committee, or contributing organization, or for inauguration activities.

(b) "Contribution" shall not include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, a slate of candidates, committee, referendum committee, or contributing organization;

2. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business;

3. An independent expenditure by any individual or permanent committee;

4. News stories, commentary, or editorials by the media;

5. Transfers between affiliated party entities that are not corporations; or

6. Communications to a restricted class such as membership communications;

(6) "Disbursement" means any purchase or payment made by a candidate, slate of candidates, referendum committee, or committee;

(7) "Election" means any primary, runoff primary, regular, or special election to fill vacancies, regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(8) "Electronic reporting" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;

(9) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(10) "Expenditure" means any reimbursement for actual expenses made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which may appear on the ballot, including but not limited to:

- *(a) Staff salaries;*
- *(b) Gifts and meals for volunteer campaign workers;*
- *(c) Food and beverages provided at a campaign rally;*
- *(d) Advertising;*
- *(e) Office space;*
- *(f) Necessary travel;*
- *(g) Campaign paraphernalia;*
- *(h) Purchases of advertisements in athletic and scholastic publications;*
- *(i) Communications with constituents, or prospective voters;*
- *(j) Polling and consulting;*
- *(k) Printing, graphic arts, or advertising services;*
- *(l) Postage;*
- *(m) Office supplies and stationery;*
- *(n) Newsletters; and*
- *(o) Equipment which is used primarily for the administration of the campaign;*

(11) "Filer" means any candidate, a slate of candidates, committee, referendum committee, or other individual or entity required to submit financial disclosure reports to the registry;

(12) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry;

(13) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;

(14) "Independent expenditure" means the expenditure of money or other things of value for a communication which:

- *(a) Expressly advocates the election or defeat of a clearly identified candidate or slate of candidates;*
- *(b) Is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them; and*
- *(c) Is not made in concert with, or at the request or suggestion of, any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them;*

(15) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his or her conduct is of that nature or that the circumstance exists;

(16) "Referendum committee" means a combination of two (2) or more individuals or two (2) or more business entities, whose purpose is to support or oppose the passage of any issue that may be placed on the ballot;

(17) "Registry" means the Kentucky Registry of Election Finance;

(18) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(19) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration in accordance with KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to

bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates; and

(20) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational.

Section 2. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the ***chairperson***[~~chairman~~], the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation,[~~ to~~] order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, [~~to ~~]compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry ***under***[~~pursuant to~~] KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the secretary of the Personnel Cabinet and shall be subject to his ***or her*** review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, ***referendum committees,*** and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, ***referendum committees,*** and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, ***referendum committees,*** committees, contributing organizations, and parties containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate or slate of candidates, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a ***candidate*** campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the

name under which he ***or she*** is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or ***candidate*** campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he ***or she*** is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of ***candidate campaign committees and*** candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected ***candidate campaign committees or*** candidate, it shall also audit the records of all other ***candidate campaign committees and*** candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all ***candidate campaign committees,*** candidates***,*** or slates of candidates running for statewide office***, except those candidate campaign committees, candidates, or slates of candidates running for statewide office that receive or spend less than five thousand dollars ($5,000)***;

(l) Require that ***candidate campaign committees,*** candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the[~~ regular~~] election ***to which the records pertain, but not to exceed six (6) years from the date the record was filed***[~~in their respective political races~~];

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion; and

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter which may become the subject of civil or criminal prosecution.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself ***or herself*** or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he ***or she*** considers to be an abridgement of his ***or her*** legal rights.

(6) If adequate and appropriate agency funds are available, the registry shall:

(a) Develop or acquire a system for electronic reporting for use by individuals and entities required to file campaign finance reports with the registry under this chapter. The registry shall promulgate administrative regulations under KRS Chapter 13A which provide for a nonproprietary standardized format or formats, using industry standards, for the transmission of data required under this chapter;

(b) Accept test files from software vendors and persons wishing to file reports electronically for the purpose of determining whether the file format complies with the nonproprietary standardized format developed under paragraph (a) of this subsection and is compatible with the registry's system for receiving the data;

(c) Make all paper or electronic reports filed with the registry pertaining to candidates for the General Assembly and statewide office available on the Internet free of charge, in an easily understood format that allows the public to browse, search, and download the data contained in the reports by each of the reporting categories required by this chapter, including, but not limited to:

1. The name of each candidate or committee;
2. The office sought by each candidate;
3. The name of each contributor;
4. The address of each contributor;
5. The employer or business occupation of each contributor, or if the contributor is a permanent committee, a description of the major business, social, or political interest represented by the permanent committee;
6. The date of each contribution; and
7. The amount of each contribution.

(d) Make all data specified in paragraph (c) of this subsection available on the Internet no later than ten (10) business days after its receipt by the registry. If a contribution or expenditure report is filed late with the registry, that data shall be made available on the Internet within twenty-four (24) hours of the registry's receipt of the data;

(e) Make filer-side software available free of charge to all individuals or entities subject to the reporting requirements of this chapter;

(f) Establish a training program on the electronic reporting program and make it available free of charge to all individuals and entities subject to the reporting requirements of this chapter;[~~ and~~]

(g) Maintain all campaign finance data pertaining to legislative and statewide candidates on-line for twenty (20) years after the date the report containing the data is filed, and then archive the data in a secure format***;***

(h) Require candidates, candidate campaign committees, and slates of candidates to file electronically on the next regularly scheduled reporting date when:

1. During the election, contributions or loans in the aggregate of twenty-five thousand dollars ($25,000) or more are received; or

2. At any time, a balance in a campaign account or accounts in the aggregate of twenty-five thousand dollars ($25,000) exists;

(i) Require candidates, candidate campaign committees, and slates of candidates to electronically file all information from prior reports filed manually for that election, if any, when filing the first report electronically. Such manually filed prior reports shall be filed electronically before the next required report; and

(j) Require committees and referendum committees to electronically file all information from prior reports filed manually for that calendar year, if any, when filing the first report electronically. Such manually filed reports shall be filed electronically before the next required report.

(7) In conjunction with the program of electronic reporting set out in subsection (6) of this section, the registry may:

(a) Develop or acquire a computer system that provides for on-line Internet submission of the reports required by this chapter utilizing security procedures to ensure the integrity of the data transmitted; and

(b) Provide procedures for verifying electronic signatures placed upon reports under this chapter.

Section 3. KRS 121.135 is amended to read as follows:

(1) Any person may file a written request with the ***general counsel to the*** registry for an advisory opinion concerning the application of the provisions of this chapter or any administrative regulation promulgated by the registry with respect to a specific transaction or activity by the person. The ***general counsel to the*** registry ***is authorized to issue***[~~shall render~~] a written advisory opinion relating to the specific transaction or activity to the person making the request ***and shall do so*** not later than ***twenty (20)***[~~thirty (30)~~] days after the registry receives the request.

(2)[~~ If a candidate, slate of candidates, or either of their campaign committees files a written request with the registry for an advisory opinion not more than thirty (30) days before the date of an election at which the candidate or slate of candidates shall appear on the ballot, the registry shall render a written advisory opinion relating to the request not later than twenty (20) days after the registry receives a complete request.~~

~~(3) No advisory opinion shall be issued by the registry or any of its employees except in accordance with the provisions of this section.~~

~~(4)~~] (a) Any advisory opinion rendered by the registry under subsection (1)[~~ or (2)~~] of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person or committee to whom a written advisory opinion has been rendered who relies upon any provision or finding of the advisory opinion and who acts in good faith in accordance with the provisions and findings of the advisory opinion shall not, as a result of any act with respect to a transaction or activity addressed by the advisory opinion, be subject to any sanction provided by this chapter or any administrative regulation promulgated by the registry.

(c) It shall be no defense in any civil or criminal proceeding regarding a violation of any provision of this chapter or any administrative regulation promulgated by the registry for a person or committee to claim that he ***or she*** relied upon and acted in good faith based upon any provision or finding of an advisory opinion if the person or committee was not the person or committee involved in the specific transaction or activity with respect to which the advisory opinion was rendered.

(3)[~~(5)~~] (a) The registry shall make public all written requests for an advisory opinion made under subsection (1)[~~ or (2)~~] of this section. Before rendering an advisory opinion, the registry shall accept written comments submitted by any interested party within the ten (10) day period following the date the request is made public.

(b) The registry shall make public all advisory opinions rendered under subsection (1)[~~ or (2)~~] of this section.

Section 4. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law. In conducting any investigation, the registry shall have the power of subpoena and may compel

production of evidence including the financial records of any person determined by the registry to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.

(2) *The registry is authorized to impose a civil penalty for the filing of a frivolous complaint, and the filing of a frivolous complaint shall be a violation of this chapter. For purposes of this subsection, "frivolous complaint" means a complaint which is groundless and brought in bad faith, or is groundless and brought for the purpose of harassment.*

(3) If the registry concludes that there is probable cause to believe that the law has been violated, the registry shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following:

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter.

(4)[~~(3)~~] To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the registry either in person or by mail postmarked not later than ten (10) days after the day he *or she* received it. The registry may institute a civil action in Franklin Circuit Court or the Circuit Court for the county of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(5)[~~(4)~~] If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, *the following procedure shall be initiated:*

(a) The registry shall submit a written request to the Chief Justice of the Kentucky Supreme Court to recommend not fewer than five (5) nor more than ten (10) retired or former justices or retired or former judges of the Court of Justice who are qualified and willing to conduct a hearing to determine if a violation has occurred*;*[~~.~~]

(b) Upon receipt of the recommendations of the Chief Justice, the registry shall randomly select one (1) retired or former justice or judge from the list to conduct the hearing, which shall be held in accordance with the Kentucky Rules of Civil Procedure*.*[~~, or,~~] If the Chief Justice declines to make recommendations, the registry, on its own initiative, shall request retired or former justices or judges to serve*;*[~~.~~]

(c) The time and location of hearings shall be determined by the registry*;*[~~.~~]

(d) Retired or former justices or judges selected to serve shall receive reimbursement from the registry for their reasonable and necessary expenses incurred as a result of the performance of their duties at the hourly rate set for attorneys by the Finance and Administration Cabinet*;*[~~.~~]

(e) The registry shall notify the complainant and the alleged violator that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing*;*[~~.~~]

(f) At the hearing, which shall be open to the public *in accordance with*[~~pursuant to~~] KRS 61.810, the attorney for the registry shall present the evidence against the alleged violator*.*[~~, and~~] The alleged violator shall have all of the protections of due process, including, but not limited to*:*[~~,~~]

1. The right to be represented by counsel*;*[~~,~~]

2. The right to call and examine witnesses*;*[~~,~~]

3. The right to the production of evidence by subpoena*;*[~~,~~]

4. The right to introduce exhibits*;* and

5. The right to cross-examine opposing witnesses*;*[~~.~~]

(g) If the justice or judge determines that the preponderance of the evidence shows a violation has occurred, the justice or judge shall render a decision not more than sixty (60) days after the case is submitted for determination*;*[~~.~~]

(h) The decision shall become the final decision of the registry unless the registry board at its next regular meeting acts to set aside or modify the justice's or judge's decision, in which case the registry board's decision shall become the final registry decision*;*[~~.~~]

(i) A party adversely affected by the registry's order may appeal to Franklin Circuit Court within thirty (30) days after the date of the registry's order*; and*[~~.~~]

(j) The violator may be ordered to comply with any one (1) or more of the following requirements:

1.[~~(a)~~] To cease and desist violation of this law;

2.[~~(b)~~] To file any reports or other documents or information required by this law;

3.[~~(c)~~] To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

4.[~~(d)~~] To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter. An appeal of an order shall be advanced on the docket to permit a timely decision.

(6)[~~(5)~~] If the registry concludes that there is probable cause to believe that the campaign finance law has been violated knowingly, it shall refer the violation to the Attorney General or the appropriate Commonwealth's or county attorney for prosecution. The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon a motion timely filed, for good cause shown, the court shall enter an order to that effect.

(7) Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county in which the expenditure is mailed.

(8)[~~(6)~~] Any person directly involved or affected by an action of the registry which is final, other than of a determination to refer a violation to the Attorney General or appropriate Commonwealth's or county attorney for prosecution, may seek judicial review of the action within thirty (30) days after the date of the action.

(9)[~~(7)~~] If judicial review is sought of any action of the registry relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

SECTION 5. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Any person making an independent expenditure shall report those expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided or using a format approved by the registry, and the person shall sign a statement on the form that:

(1) The expenditure was an actual independent expenditure;

(2) The expenditure was made without any coordination, consultation, or cooperation with any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them; and

(3) The expenditure was not made in concert with, or at the request or suggestion of, any candidate, slate of candidates, candidate campaign committee, or any authorized person acting on behalf of any of them.

SECTION 6. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by a candidate, slate of candidates, or candidate campaign committee to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited. However, it shall not be construed as a violation of this section for a candidate or slate of candidates to contribute to religious, civic, or charitable groups from personal funds.

(2) A candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election;

(f) A contribution from any person, permanent committee, or contributing organization in any one (1) election of

more than one thousand dollars ($1,000) for any candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf. However, a school board candidate, or anyone acting on his or her behalf, shall not accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election; or

(g) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, slate of candidates, candidate campaign committee, or anyone on their behalf.

(3) A candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(4) A candidate, slate of candidates, or candidate campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or candidate campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with Section 32 of this Act.

(5) Candidates who loan money to their candidate campaign committees or a slate of candidates who loan money to their candidate campaign committees shall not have more than one hundred eighty (180) days following an election to recoup such loans under the provisions of subsection (13) of this section.

(6) A candidate, slate of candidates, or candidate campaign committee may accept contributions for the regular election prior to the primary election only if such contributions are clearly designated as regular election contributions and attributed to the regular election.

(7) A candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(8) A candidate, slate of candidates, or candidate campaign committee that accepts contributions from a permanent committee shall conform to the following:

(a) Contributions shall not, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate, slate of candidates, or candidate campaign committee in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount;

(b) The percentage of the total contributions or dollar amounts of contributions shall be calculated as of the day of each election; and

(c) Funds in a candidate's, slate of candidates', or candidate campaign committee's campaign account that are carried forward from one (1) election to another shall not be considered in calculating the percentage requirements in paragraph (a) of this subsection.

(9) A candidate, slate of candidates, or candidate campaign committee may, without penalty, not later than sixty (60) days following the election:

(a) Contribute funds to his, her, or their campaign account so as not to exceed the permitted percentage or dollar amount of contributions accepted from permanent committees in accordance with paragraph (a) of subsection (8) of this section; or

(b) Refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(10) The provisions of subsections (8) and (9) of this section regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(11) The provisions of subsections (8) and (9) of this section regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from caucus campaign committees.

(12) A candidate, slate of candidates, or candidate campaign committee shall not accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account.

(13) A candidate, slate of candidates, or candidate campaign committee may accept contributions one hundred eighty (180) days following an election for the sole purpose of retiring net debts outstanding, provided that the:

(a) Contribution is expressly designated for that election;

(b) Contributions do not exceed the contributor's limit for the designated election; and

(c) Campaign has net debts outstanding for the designated election on the day it receives the contribution.

(14) Candidates, slates of candidates, and candidate campaign committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121 without penalty.

(15) Candidates, slates of candidates, and candidate campaign committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 7. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by caucus campaign committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited.

(2) A caucus campaign committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a caucus campaign committee or anyone acting on its behalf.

(3) A caucus campaign committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(4) A caucus campaign committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(5) Caucus campaign committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(6) Caucus campaign committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 8. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by political issues committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited.

(2) A political issues committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a political issues committee or anyone acting on its behalf.

(3) A political issues committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(4) Political issues committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(5) Political issues committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 9. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by permanent committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited.

(2) A permanent committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a permanent committee or anyone acting on its behalf.

(3) A permanent committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(4) A permanent committee shall not make a contribution of more than one thousand dollars ($1,000) to any candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf. However, a permanent committee shall not make a contribution of more than two hundred dollars ($200) to any one (1) school board candidate or his or her candidate campaign committee, or anyone acting on their behalf, in any one (1) election.

(5) Permanent committees affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of this section.

(6) A permanent committee shall not contribute funds to another permanent committee for the purpose of circumventing the contribution limits of this section.

(7) A permanent committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(8) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee, insofar as its actions can be deemed not in violation of KRS 121.025.

(9) Permanent committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(10) Permanent committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 10. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 34 of this Act, the solicitation from and contributions by executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited.

(2) An executive committee, or anyone acting on its behalf, shall not accept:

- *(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;*
- *(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;*
- *(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;*
- *(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;*
- *(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or*
- *(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to an executive committee or anyone acting on its behalf.*

(3) An executive committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(4) An executive committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(5) Executive committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(6) Executive committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

(7) State executive committees whose gubernatorial candidate received either the most or second most number of votes in the last preceding regular election for Governor shall be permitted to establish a building account. These two (2) executive committees may accept contributions in any amount from any person or legal entity, and such contributions shall be reported to the registry in the course of the executive committees' regular reporting duties.

(8) Any person or entity that makes a contribution pursuant to subsection (7) of this section in excess of five thousand dollars ($5,000) in any calendar year to an executive committee building fund shall not be eligible for any no-bid contract issued by the Commonwealth for the four (4) years immediately following the date of the contribution which exceeded the five thousand dollar ($5,000) threshold.

SECTION 11. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) An inaugural committee, or anyone acting on its behalf, shall not accept:

- *(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;*
- *(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;*
- *(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;*
- *(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;*
- *(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or*
- *(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to an inaugural committee or anyone acting on its behalf.*

(2) An inaugural committee, or anyone acting on its behalf, shall not knowingly accept a contribution from a corporation, directly or indirectly.

(3) An inaugural committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a

state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(4) Inaugural committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

(5) Inaugural committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

SECTION 12. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not make a currency contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, slate of candidates, or committee, or anyone acting on their behalf.

(2) A person shall not make a contribution of more than one thousand dollars ($1,000) to any candidate, slate of candidates, or candidate campaign committee, or anyone acting on their behalf. However, a person shall not make a contribution of more than one hundred dollars ($100) to any one (1) school board candidate or his or her candidate campaign committee, or to anyone acting on their behalf, in any one (1) election.

(3) A person shall not contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of this section.

(4) A person shall not contribute more than one thousand five hundred dollars ($1,500) to all permanent committees in the aggregate, in any one (1) year.

(5) A person shall not contribute in the aggregate, in any one (1) year more than:

- *(a) Two thousand five hundred dollars ($2,500) to the state executive committee of a political party;*
- *(b) Two thousand five hundred dollars ($2,500) to the subdivisions and affiliates of the state executive committee of a political party; and*
- *(c) Two thousand five hundred dollars ($2,500) to a caucus campaign committee.*

(6) A person shall not make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, slate of candidates, or committee, or anyone acting on their behalf.

SECTION 13. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A candidate, slate of candidates, committee, referendum committee, or person shall be permitted to utilize on-line credit and debit card contributions, expenditures, and disbursements; electronic transfer contributions, expenditures, and disbursements; and other electronic transactions, including but not limited to contributions, receipts, expenditures, and other disbursements under the following conditions:

- *(a) All credit and debit card and electronic transfer contributions shall be itemized;*
- *(b) All credit and debit card and electronic transfer expenditures shall be itemized;*
- *(c) All credit and debit card and electronic transfer disbursements shall be itemized;*
- *(d) All credit and debit card and electronic transfer independent expenditures made in accordance with Section 2 of this Act shall be itemized; and*
- *(e) The payor and the payee shall be clearly identified.*

(2) The registry shall adopt reporting forms that adequately reflect credit and debit card contributions, expenditures, and disbursements; electronic transfer contributions, expenditures, and disbursements; and other electronic transactions including but not limited to contributions, receipts, expenditures, and other disbursements.

(3) The registry shall promulgate administrative regulations to implement this section.

Section 14. KRS 121.160 is amended to read as follows:

(1) As part of the filing papers each candidate or slate of candidates shall, on a duplicate form prescribed and furnished by the registry, designate a campaign treasurer to act as their agent at the time and at the office with which they file as a candidate or slate of candidates and until this requirement is met the candidate or slate of candidates shall be listed as their own treasurer and accountable as such. The candidate or slate of candidates may appoint themselves or any registered voter in Kentucky as the campaign treasurer. The office with which the candidate or slate of candidates is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's or slate's campaign treasurer and shall attach the original to the candidate's or slate's filing papers. The office with which the candidate or slate of candidates files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

- (a) Designate a depository bank in which the primary campaign account shall be maintained and deposit all contributions in that account;
- (b) *Deposit all contributions in the campaign account within ten (10) days after the contribution is in the possession of the treasurer;*

(c) Keep detailed and exact accounts of:

1. Contributions of any amount made by a permanent committee, by name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
2. Contributions in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, by the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he ***or she*** is doing business, and the amount contributed by each contributor; and
3. Contributions in excess of one hundred dollars ($100) made to any candidate other than those specified in subparagraph 2., by name, address, age if under legal voting age, date of the contribution, amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he ***or she*** is doing business shall be listed. The occupation listed for the contributor shall be specific. A general classification, such as ***"businessperson"***[~~"businessman"~~], shall be insufficient;

(d)[~~(c)~~]Make or authorize all expenditures on behalf of a candidate or slate of candidates. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and occupation of every person or firm to whom made, and shall list the date and amount of the expenditure and the treasurer shall keep a receipted bill for each;

(e)[~~(d)~~]Maintain all ***records, including but not limited to bank statements, deposit slips, contribution check photocopies, contribution cards, proof of electronic financial transactions that do not have traditional paper records, disbursement invoices, and any and all records pertaining to the campaign,***[~~receipted bills and accounts required by this section~~] for a period of six (6) years from the date ***of the election to which the records pertain, but not to exceed six (6) years from the date the record was filed***[~~he files his last report under KRS 121.180(3)(b)1.~~]; and

(f)[~~(e)~~] Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate or slate of candidates may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate or slate of candidates shall, within three (3) days after receiving notice[~~ thereof by certified mail~~], appoint a successor and shall file his ***or her*** name and address with the registry. The candidate[~~,~~] or slate shall be accountable as their own campaign treasurer if they fail to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate or slate of candidates, but all reports shall be made separately for each individual candidate or slate.

(6) The candidate or slate of candidates may pay a campaign treasurer a salary for his ***or her*** services which shall be considered a campaign expense and shall comply with the reporting provisions of ***Section 27 of this Act***[~~KRS 121.180~~] and administrative regulations promulgated by the registry.

(7) A contribution shall not be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee.

Section 15. KRS 121.170 is amended to read as follows:

(1) Any committee ***or referendum committee***, except a federally-registered[~~ out-of-state~~] permanent committee, organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry[~~; except that no campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a joint notification and declaration by the slate of candidates pursuant to KRS 118.125 and 118.127~~]. No entity which is excluded from the definition of "***candidate*** campaign committee" established in ***Section 1 of this Act***[~~KRS 121.015(3)(a)~~] shall be required to register as a committee with the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents shall register with the registry when he ***or she*** raises in excess of three thousand dollars ($3,000) in any one (1) election for the ***candidate*** campaign committee by filing official notice giving his ***or her*** name, address, occupation, employer or, if he ***or she*** is self-employed, the name under which he ***or she*** is doing business, and all candidates or slates of candidates for whom he ***or she*** is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of ***Sections 27, 28, and 29 of this Act***[~~KRS~~

~~121.180(3), (4), and (5)]~~.

(3) All provisions of KRS 121.160 governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered~~[out-of-state]~~ permanent committee, and a person acting as a campaign fundraiser. In case of the death, resignation, or removal of a campaign treasurer for a permanent committee***, caucus campaign committee,*** or executive committee, the ***chairperson***~~[chairman]~~ of the permanent committee***, caucus campaign committee,*** or executive committee shall, within three (3) days after receiving notice of the vacancy~~[by certified mail]~~, appoint a successor as treasurer for the committee and file the name and address of the successor with the registry. The ***chairperson***~~[chairman]~~ of the permanent committee***, caucus campaign committee,*** or executive committee shall be accountable as the treasurer for the committee if the ***chairperson***~~[chairman]~~ fails to meet this filing requirement.

(4) The ***chairperson***~~[chairman]~~ of a committee and the campaign treasurer shall be separate persons.

(5) Any federally-registered~~[out of state]~~ permanent committee that contributes to a Kentucky candidate or a slate of candidates shall:

(a) File with the registry a copy ***of the cover and summary pages*** of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) ***File with the registry an itemized expenditures schedule detailing any contribution***~~[File with the registry a copy of the Federal Election Commission finance report when a contribution is]~~ made to a Kentucky candidate or a slate of candidates; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate or to any slate of candidates for any office in this Commonwealth***, as provided in subsection (4) of Section 9 of this Act***.

(6) Notwithstanding any provision of law to the contrary, a contribution made by a federally-registered permanent committee to any candidate or to any slate of candidates for any office in this Commonwealth that complies with the provisions of 2 U.S.C. sec. 441b, 11 C.F.R. sec. 104.10, 11 C.F.R. sec. 106.6, and 11 C.F.R. sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates or slates of candidates.

(7) ***Any permanent committee, except a federally registered permanent committee, organized under this chapter shall, at the time of registration with the registry as described in subsection (1) of this section, provide a list of its affiliation with other permanent committees. Changes in such affiliations shall also be reported in writing to the registry on an ongoing basis.***

(8) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be prohibited.

Section 16. KRS 121.175 is amended to read as follows:

(1) ***A***~~[No]~~ candidate, ***candidate campaign*** committee, ***referendum committee, inaugural committee, or political issues committee***~~[or contributing organization]~~ shall ***not*** permit funds in a campaign account to be expended for any purpose other than for ***an expenditure as defined in Section 1 of this Act.***~~[allowable campaign expenditures. "Allowable campaign expenditures" means expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot and includes, but is not limited to, expenditures for staff salaries, gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally, advertising, office space, necessary travel, campaign paraphernalia, purchases of advertisements in athletic and scholastic publications, communications with constituents or prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the campaign. "Allowable campaign expenditures" does not include]~~

(2) Expenditures of funds in a campaign account for any purpose made unlawful by other provisions of the Kentucky Revised Statutes or which would bestow a private pecuniary benefit ***are prohibited, including but not limited to:***~~[, except for]~~ payment of the reasonable value of goods and services provided ***to***~~[upon]~~ a candidate, member of the candidate's family, ***candidate campaign*** committee, ***referendum committee, inaugural committee, or political issues committee***~~[or contributing organization]~~, or any of their employees, paid or unpaid, including:

(a) Tickets to an event which is unrelated to a political campaign or candidacy;

(b) Items of personal property for distribution to prospective voters except items bearing the name, likeness, or logo of a candidate or a campaign-related communication;

(c) Expenditures to promote or oppose a candidacy for a leadership position in a governmental, professional, or political organization, or other entity; and

(d) Equipment or appliances the primary use of which is for purposes outside of the campaign.

(3) The provisions of KRS 121.190 notwithstanding, a candidate shall not be required to include a disclaimer on campaign stationery purchased with funds from his ***or her*** campaign account.

(4) A member of the General Assembly may utilize funds in his ***or her*** campaign account to:

(a) Purchase admission tickets for political party functions and caucus campaign committee functions*;*[~~,~~]

(b) [~~To~~]Purchase items with a value of not in excess of one hundred dollars ($100) for donation to a political party or caucus campaign committee for auctions and fundraisers*;*[~~,~~] and

(c) [~~To~~]Participate in or support other events sponsored by a political party or caucus campaign committee.

A member of the General Assembly may make allowable campaign expenditures in both election years and nonelection years.

(5)[~~(2)~~] [~~By December 31, 1993,~~]The registry shall promulgate administrative regulations to implement and enforce the provisions of *subsections*[~~subsection~~] (1) *and (2) of this section*.

(6)[~~(3)~~] In lieu of the penalties provided in KRS 121.140 and 121.990 for a violation of this section, the registry may, after hearing:

(a) For a violation which was not committed knowingly, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000); and

(b) For a violation which was committed knowingly, in addition to referring the matter for criminal prosecution, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000).

SECTION 17. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any candidate or slate of candidates shall be exempt from filing any finance reports if the candidate or slate of candidates files a form prescribed and furnished by the registry stating that contributions shall not be accepted or expended in excess of five thousand dollars ($5,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot.

(2) A candidate or slate of candidates shall:

(a) File a separate form for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate or slate of candidates indicates on a request for exemption that the request will be applicable to more than one (1) election; and

(b) File the form with the same office where a candidate or slate of candidates files nomination papers.

(3) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers. Except as provided in Section 19 of this Act, a candidate or slate of candidates shall be bound by the terms of the exemption unless it is rescinded in writing not later than fifteen (15) days after the filing deadline.

(4) For a runoff primary election, a slate of candidates shall file a request for exemption not later than five (5) days after the date of the preceding primary election. A slate of candidates shall be bound by the terms of the exemption unless it is rescinded in writing not later than ten (10) days after the date of the preceding primary election.

(5) For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election or runoff primary, if one is held, except as provided in Section 19 of this Act.

(6) For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election. A candidate or slate of candidates shall be bound by the terms of the exemption unless it is rescinded in writing not later than twenty-five (25) days after the date when the nomination for a special election is made.

(7) A candidate or a slate of candidates that rescinds a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of five thousand dollars ($5,000) in an election.

SECTION 18. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A referendum committee shall register with the registry and report all contributions and expenditures in accordance with subsection (2) of this section if the referendum committee raises or expends:

(a) Five thousand dollars ($5,000) or more to secure the placement of the question on the ballot in an area greater in size than one (1) county; or

(b) Two thousand five hundred dollars ($2,500) or more to secure the placement of the question on the ballot in an area in size equal to or less than one (1) county.

(2) All referendum committees shall file financial reports with the registry at the end of the first calendar quarter in which registration of the referendum committee occurs, and each calendar quarter thereafter, until such time as the referendum committee terminates. Reports shall cover all transactions through the last day of each calendar quarter and shall be due five (5) days after the reporting period covered.

(3) A referendum committee, or anyone acting on its behalf, shall not accept:

(a) An anonymous contribution in excess of fifty dollars ($50). All anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor if the donor can be determined. If no donor is found, the contribution shall escheat to the state;

(b) Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate that are received in any one (1) election shall escheat to the state;

(c) A currency contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election;

(d) A cashier's check or money order in excess of the maximum currency contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order that identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section;

(e) Any contribution in excess of one hundred dollars ($100) from any person who will not be eighteen (18) years of age on or before the day of the next regular election; or

(f) A contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a referendum committee or anyone acting on its behalf.

(4) A referendum committee, or anyone acting on its behalf, shall not solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him or her as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(5) Referendum committees shall be permitted to utilize electronic banking. The registry shall promulgate administrative regulations to implement this subsection.

(6) Except as provided in Section 34 of this Act, the solicitation from and contributions by referendum committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited.

(7) Nothing in this chapter shall prohibit a referendum committee from transferring the unexpended balance at hand, if any, at the time of termination, to a political issues committee formed to advocate or oppose the same constitutional amendment or public question appearing on the ballot.

(8) Referendum committees shall have thirty (30) days from the date of deposit to refund funds prohibited under KRS Chapter 121, without penalty.

SECTION 19. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A candidate for any city or county office or for any school board office who is exempted from campaign finance reporting requirements in accordance with Section 17 of this Act, but who accepts contributions or makes expenditures in excess of the exempted amount in any one (1) election, shall file all applicable reports required for the remainder of that election.

(2) The filing of applicable required reports by such a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

SECTION 20. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any candidate or slate of candidates subject to an August filing deadline who intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline. Except as provided in Section 19 of this Act, the candidate or slate of candidates shall be bound by the terms of the request for exemption unless it is rescinded in writing not later than fifteen (15) days after the filing deadline.

(2) A candidate or slate of candidates subject to subsection (1) of this section shall have the same rescission rights as those provided in Section 17 of this Act.

(3) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the rescission rights provided in Section 17 of this Act if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates.

(4) Except as provided in Section 19 of this Act, a candidate or slate of candidates subject to subsection (3) of this section shall comply with the deadline for rescission provided in Section 17 of this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 19 of this Act, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes,

may rescind the request for exemption by exercising the rescission rights provided in Section 17 of this Act.

(2) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes. If the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in Section 19 of this Act, may petition the registry to permit the candidate or slate of candidates to exercise the rescission rights provided in Section 17 of this Act.

SECTION 22. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

If the opponent of a candidate or slate of candidates is replaced due to his or her withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in Section 19 of this Act, may exercise the rescission rights provided in Section 17 of this Act not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

SECTION 23. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under Section 17 of this Act and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election.

(2) A person intending to be a write-in candidate who rescinds a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of five thousand dollars ($5,000) in any one (1) election.

(3) Except as provided in Section 19 of this Act, a person intending to be a write-in candidate who rescinds a request for exemption shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.

SECTION 24. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 19 of this Act, a candidate campaign committee that has filed a request for exemption shall be bound by the terms of the request for exemption unless it is rescinded in a timely manner and no new request for exemption has been executed.

SECTION 25. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 19 of this Act, any candidate, candidate campaign committee, or slate of candidates that is exempt from filing campaign finance reports in accordance with Section 17, subsections (1) and (2) of Section 20, or Section 23 of this Act and accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements. In lieu of other penalties prescribed by law, such candidate, candidate campaign committee, or slate of candidates shall pay a fine of not more than five hundred dollars ($500) plus the amount that was exceeded by the spending limit.

(2) Except as provided in Section 19 of this Act, candidates, slates of candidates, or candidate campaign committees that are exempt from filing campaign finance reports in accordance with Section 17, subsections (1) and (2) of Section 20, or Section 23 of this Act and knowingly accept contributions or make expenditures, or whose campaign treasurer knowingly accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

SECTION 26. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) (a) State and county executive committees and caucus campaign committees shall make a full report upon a prescribed form to the registry of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made since the date of the last report, including:

- *1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;*
- *2. For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;*
- *3. The total amount of currency contributions received during the reporting period; and*
- *4. A complete statement of expenditures authorized, incurred, or made, including the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25) and the amount, date, and purpose of each expenditure.*

(b) Reports shall be due within five (5) days after the thirtieth day following:

- *1. The primary election, and shall include all previous contributions and expenditures since the last report;*

2. A runoff primary election if slates of candidates of that party participate, and shall include all previous contributions and expenditures since the last report; and

3. A regular election, and shall include all previous contributions and expenditures since the last report.

(2) If an individual gives a reportable contribution to a caucus campaign committee or to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required by this subsection and shall be due by the registry within five (5) days after the thirtieth day following each regular election.

SECTION 27. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Except for candidates, slates of candidates, or candidate campaign committees exempted from reporting requirements in accordance with Section 17, 20, or 23 of this Act, each campaign treasurer of a candidate, slate of candidates, or candidate campaign committee who accepts contributions, expends, or expects to accept contributions or expend or contracts to expend more than five thousand dollars ($5,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a candidate campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he or she is doing business, and the amount contributed by each contributor;

(c) For each contribution in excess of one hundred dollars ($100) made to any candidate or candidate campaign committee other than those specified in paragraph (b) of this subsection, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

(d) The total amount of currency contributions received during the reporting period; and

(e) A complete statement of all expenditures authorized, incurred, or made, including the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(2) Reports of all candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall be made on forms prescribed by the registry as follows:

(a) Candidates as defined in Section 1 of this Act, slates of candidates, candidate campaign committees, political issues committees, and fundraisers that register in the year before the year an election in which the candidate, slate of candidates, or public question shall appear on the ballot shall file financial reports with the registry the first calendar quarter in which persons become candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, slates of candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place. All financial reports required by this subsection shall cover all transactions through the last day of each calendar quarter and shall be due by the registry five (5) days after the reporting period covered;

(b) All candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall make reports on the sixtieth day preceding the date of the regular election, including all previous contributions and expenditures since the last report. This report shall reflect all transactions made through the sixtieth day and shall be due by the registry five (5) days after the reporting period covered;

(c) All candidates and slates of candidates running for statewide office, and the candidate campaign committees and registered fundraisers of such candidates and slates of candidates, shall make reports on the sixtieth day preceding the date of the primary, including all previous contributions and expenditures since the last report. This report shall reflect all transactions made through the sixtieth day and shall be due by the registry five (5) days after the reporting period covered;

(d) All candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall make reports on the thirtieth day preceding the date of the primary and the regular election, including all previous contributions and expenditures since the last report. This report shall reflect all transactions made through the thirtieth day preceding the date of the election and shall be due by the registry

five (5) days after the reporting period covered; and

(e) All candidates, slates of candidates, candidate campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the primary and the regular election. This report shall reflect all transactions made through the fifteenth day, including all previous contributions and expenditures since the last report, and shall be due by the registry five (5) days after the reporting period covered.

SECTION 28. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Except for candidates and slates of candidates exempted in accordance with Section 17 of this Act, all candidates, regardless of funds received or expended, candidate campaign committees, political issues committees, and registered fundraisers shall make post-election reports on the thirtieth day following the date of the election. This report shall reflect all transactions made through the thirtieth day, including all previous contributions and expenditures since the last report, and shall be due by the registry five (5) days after the reporting period covered.

SECTION 29. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) In making the reports set forth under Section 27 of this Act, the total gross receipts from each of the following categories shall be listed:

(a) Proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events;

(b) Mass collections made at the events; and

(c) Sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials.

(2) If any individual purchase or the aggregate purchases of any item enumerated in subsection (1) of this section, from a candidate or slate of candidates for a statewide-elected state office or a candidate campaign committee for a candidate or slate of candidates for a statewide-elected state office, exceeds one hundred dollars ($100), the purchaser shall be identified by:

(a) Name;

(b) Address;

(c) Age, if less than the legal voting age;

(d) Occupation;

(e) Employer;

(f) Employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he or she is doing business; and

(g) Amount of the purchase.

(3) If any individual purchase or the aggregate purchases of any item enumerated in subsection (1) of this section, from any candidate or candidate campaign committee other than a candidate or slate of candidates for a statewide-elected state office or candidate campaign committee for a candidate or slate of candidates for a statewide-elected state office, exceeds one hundred dollars ($100), the purchaser shall be identified by:

(a) Name;

(b) Address;

(c) Age, if less than the legal voting age;

(d) Occupation;

(e) Employer;

(f) If the purchaser is self-employed, the name under which he or she is doing business; and

(g) Amount of the purchase.

(4) The lists required in subsections (2) and (3) of this section shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years from the date of the election to which the records pertain, but not to exceed six (6) years from the date the record was filed.

SECTION 30. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Each permanent committee, except a federally registered permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee:

1. The name and business address of the permanent committee;

2. The date of the contribution;

3. The amount contributed; and

4. A description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100):

1. The full name, address, and age if under the legal voting age of each contributor;

2. The date of the contribution;

3. The amount of the contribution;

4. The employer and occupation of each contributor; and

5. If the contributor is self-employed, the name under which he or she is doing business shall be listed;

(c) An aggregate amount of currency contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures.

(2) The report required in subsection (1) of this section shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter in which the committee has registered with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. This report shall reflect all previous contributions and expenditures since the last report, and shall be due by the registry five (5) days after the reporting period covered.

(3) A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made.

SECTION 31. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) If the final report of a candidate, candidate campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental report of contributions and expenditures not more than thirty (30) days after the deadline for filing the final report.

(2) Subsequent supplemental reports shall cover all transactions through December 31 and shall be filed annually, to be due by the registry not later than ten (10) days after December 31 of each year. Such subsequent supplemental reports shall be filed until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficits, or until the year before the candidate or a slate of candidates seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed. In such a case the candidate or a slate of candidates shall file the supplemental annual report not later than ten (10) days after December 31 of that year.

(3) All contributions shall be subject to Sections 5, 6, 7, 8, 9, 10, 11, 12, and 13 of this Act.

SECTION 32. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) All reports filed under KRS Chapter 121 shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(2) A duplicate paper copy of each report filed either on paper or electronically with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside.

(3) County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

SECTION 33. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

A candidate or slate of candidates is relieved of the duty to personally file reports and keep records of receipts and expenditures if the candidate or slate of candidates states in writing or on forms provided by the registry that:

(1) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of its principal candidate campaign committee without expending any of the proceeds thereof;

(2) No contributions shall be commingled with the candidate's or slate of candidates' personal funds or accounts;

(3) Contributions received by check, electronic transfer, credit card, money order, or other written instrument shall be endorsed or submitted directly to the candidate campaign committee and shall not be cashed or redeemed by the candidate;

(4) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this subsection does not preclude a candidate or slate of candidates from making an expenditure from personal funds to the designated principal candidate campaign committee, which shall be reported by the committee as a contribution received; and

(5) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

SECTION 34. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) A candidate, slate of candidates, candidate campaign committee, referendum committee, or political issues committee shall not use or permit the use of contributions or funds solicited or received to:

(a) Further the candidacy of the candidate for a different public office;

(b) Support or oppose a different public issue; or

(c) Further the candidacy of any other candidate or slate of candidates for public office.

(2) A candidate or slate of candidates may use funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair.

(3) A candidate, slate of candidates, candidate campaign committee, referendum committee, or political issues committee shall deem any funds or contributions solicited or received to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot.

(4) A candidate, slate of candidates, candidate campaign committee, referendum committee, or political issues committee shall dispose of any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue, the candidacy of a person, or a slate of candidates, in whole or in part, at the election of the candidate, slate of candidates, or committee, after the election is over as follows:

(a) Funds may escheat to the State Treasury;

(b) Funds may be returned pro rata to all contributors;

(c) In the case of a partisan candidate or slate of candidates, funds may be transferred to a caucus campaign committee or to the state or county executive committee of the political party of which the candidate or slate of candidates is a member;

(d) Funds may be retained by a candidate, slate of candidates, committee, or official to further the same public issue or to seek election to the same office; or

(e) Funds may be donated to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, 26 U.S.C. sec. 501(c)(3), as amended, and any successor thereto.

SECTION 35. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public, who receives funds for the purchase of advertising services or material, shall file with the registry:

(a) A copy of the material or communication purchased which supports or opposes any slate of candidates or committee;

(b) A copy of the receipt for the funds paid;

(c) The name and address of each purchaser; and

(d) The source of the funds for the purchase if different than the purchaser.

(2) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry:

(a) A copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission; and

(b) A cover letter from the manager of the station or network or the manager's designee.

(3) All information required to be reported by subsections (1) and (2) of this section shall be due by the registry not later than the thirtieth day following the primary, runoff primary, and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.

(4) The provisions of this section shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

(5) Notwithstanding KRS 121.990, penalties for violation of this section shall be assessed in accordance with the provisions of Section 4 of this Act.

SECTION 36. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Filers specified in Section 2 of this Act shall not be required to file campaign finance reports in paper format with the registry, but shall file a paper copy with the county clerk in the county where the candidate resides.

(2) Filers not required to file reports electronically are strongly encouraged to do so voluntarily.

(3) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.

(4) All electronic or on-line filers shall affirm and certify that the report filed with the registry is complete and accurate.

(5) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.

(6) The registry may require all filers exercising the option of electronic filing by accepting filer-side software free of charge to agree to use the electronic filing system for the relevant election or elections for which the software was accepted.

SECTION 37. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

The registry shall promulgate administrative regulations to establish a de minimus standard, under which a regulated entity whose report contained a minor discrepancy would not be obligated to submit an amended report addressing the error until the next regularly scheduled report is due.

Section 38. KRS 121.190 is amended to read as follows:

(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots, and paid-for television or radio announcements which expressly advocate the election or defeat of a clearly identified candidate, slate of candidates, or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the individual or committee which paid for the communication; except that if paid for by a candidate, slate of candidates, or ***candidate*** campaign committee, it shall be identified only by the words "paid for by" followed by the name of the candidate, slate of candidates, or ***candidate*** campaign committee, whichever is applicable.[~~ For television and radio broadcasts, compliance with Federal Communications Commission regulations regarding sponsored programs and broadcasts by candidates for public office shall be considered compliance with this section.~~]

(2) The management of newspapers and magazines shall keep a one (1) year record of all statements, articles, or advertisements referred to in subsection (1) of this section, that appear in their publications, however, nothing in subsection (1) of this section shall be construed to require editors or editorial writers of newspapers and magazines to identify themselves in the manner therein required with any article or editorial written by them as part of their duties as an employee or employer.

(3) Subsection (1) of this section shall apply to the extent that it does not conflict with the Federal Communications Act of 1934, 47 U.S.C. secs. 315 and 317. A radio or television station shall not be held responsible for the content of communications pursuant to subsection (1) of this section.

Section 39. KRS 121.210 is amended to read as follows:

(1) Each candidate may designate one (1) central campaign committee. If so designated, the central campaign committee shall receive all reports made by any other ***candidate*** campaign committee authorized in writing by the candidate to accept contributions or make expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his ***or her*** central campaign committee.

(2) Each statement or report which an authorized committee is required to file with or furnish to the registry shall, if that committee is not a central campaign committee, be furnished instead to the central campaign committee for the candidate on whose behalf that committee is, or is established for the purpose of, accepting contributions or making expenditures.

(3) Each central campaign committee shall receive all reports and statements filed with or furnished to it by other authorized committees, and shall consolidate and furnish the reports and statements to the registry, together with its own reports and statements as prescribed by ***this chapter***[~~KRS 121.180~~].

(4) ***Candidate*** campaign committees not authorized by, or which have been disavowed by the candidate, shall not include the name of the candidate as part of the committee's name and shall file the reports and statements with the registry as prescribed in ***this chapter***[~~KRS 121.180~~].

Section 40. KRS 121.220 is amended to read as follows:

(1) Each candidate, slate of candidates, ***referendum committee,*** and[~~ each~~] committee***, except federally registered permanent committees,*** shall, before receiving any contributions or expending any money, ***segregate primary election funds from regular election funds and*** designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate, slate of candidates, ***referendum committee,*** or committee. The candidate, slate of candidates, ***referendum committee,*** or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate, slate of candidates, ***referendum committee,*** or committee participates. ***Segregation of primary election funds from regular election funds shall be achieved through bookkeeping.*** Deputy campaign treasurers may make expenditures from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate, slate of candidates, ***referendum committee,*** or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate, slate of candidates, ***referendum committee,*** or committee files the name of ***the***[~~his or its~~] campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate, slate of candidates, ***referendum committee,*** or committee***, except federally registered permanent committees,*** shall be deposited in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." For each deposit, the campaign treasurer or deputy campaign treasurer shall retain a statement showing the name and business address of the

permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee for each contribution of any amount made by a permanent committee, and the full name, address, employer of each other contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he ***or she*** is doing business, and occupation of each contributor of more than one hundred dollars ($100) and the amount contributed. ***Currency***[~~Cash~~] contributions shall be accompanied by the same receipt form.

Section 41. KRS 121.230 is amended to read as follows:

(1) No state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall use ***the***[~~such~~] funds other than in support of the party's candidates in a ***regular***[~~general~~] election and for the administrative costs of maintaining a political party headquarters.

(2) Each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit such funds in a bank account and shall report the amount of such funds received as a separate entry on its committee report. All expenditures from such remitted funds shall be by check. A copy of each canceled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the state or local governing authority of the political party for a period of not less than four (4) years.

(3) The designated official of each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance, and expenditures of the funds so remitted. In addition, the official shall, within thirty (30) days after each ***regular***[~~general~~] election, forward to the Registry of Election Finance a report of:

(a) The unexpended and unobligated balance of such remitted funds; and

(b) An itemized listing of each expenditure authorized, incurred or made from such remitted funds, indicating the amount, date, and purpose of each expenditure, regardless of the amount, and the name, address, and occupation of each person to whom an expenditure of ***twenty-five dollars ($25)***[~~fifty dollars ($50)~~] or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(5) The Registry of Election Finance may annually audit the accounts and records of receipts and expenditures of funds in the amount of one thousand five hundred dollars ($1,500) or less that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall annually audit the accounts and records of receipts and expenditures of funds in the amount of more than one thousand five hundred dollars ($1,500) that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall report the results of each audit conducted to the General Assembly. In the course of such audits, the registry or its authorized agents may ascertain the amount of such remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the registry any of the information required under this section.

Section 42. KRS 121.056 is amended to read as follows:

(1) No person who contributes more than the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has contributed more than the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office or any entity in which such a person has a substantial interest shall have any contract with the Commonwealth of Kentucky during the term of office following the campaign in which the contributions shall be made unless the contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of the entity or the person and his immediate family together own or control ten percent (10%) or more of the entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election as provided by those subsections, shall apply to a person who makes a total contribution in excess of the maximum legal contribution established ***in Section 12 of this Act***[~~by KRS 121.150~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office as provided by this subsection.

Section 43. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, or 40 of this Act, KRS***[~~121.150 to 121.230,~~] 121.310(1), or 121.320 shall, for each offense, be guilty of a Class D felony. Violations of ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, or 41 of this Act***[~~KRS 121.150 to 121.230~~] shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication in violation of KRS 121.190(1).

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, or 40 of this Act***[~~KRS 121.150 to 121.220~~], or whose campaign treasurer knowingly violates any provision of ***Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, or 40 of this Act***[~~KRS 121.150 to 121.220~~], with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120***, Section 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, or 41 of this Act***[~~to 121.230~~].

(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter. In the event he ***or she*** fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of ***Section 6, 7, 8, 9, 10, 11, or 12 of this Act***[~~KRS 121.150(12)~~] shall, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he ***or she*** continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant, forfeit all benefits which he ***or she*** would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel ***in accordance with***[~~pursuant to~~] KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until ***the***[~~such~~] penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his ***or her*** office declared vacant and shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he ***or she*** has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his ***or her*** office shall be declared vacant and he ***or she*** shall forfeit all benefits which he ***or she*** would have been entitled to receive had he ***or she*** continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

Section 44. KRS 61.710 is amended to read as follows:

[~~(1)~~]KRS 61.710 to 61.780 apply to Justices and Judges of the Court of Justice, Commonwealth's attorneys, and all candidates for all those offices. KRS 61.710 to 61.780 also apply to a person appointed to a vacancy in an unexpired term of any office mentioned above.

[~~(2) KRS 61.710 to 61.780 also apply to:~~

~~(a) Any employee of a daily newspaper of 50,000 or more circulation published in Kentucky who either orally, or in writing contributes to the editorial policy of the newspaper; and~~

~~(b) Any employee of a radio or television station that is owned in common with a newspaper described above who directly or indirectly contributes to the editorial policy of the station.~~]

Section 45. KRS 23A.070 is amended to read as follows:

(1) The Thirtieth Judicial Circuit is entitled to twenty-three (23) judges and shall have twenty-three (23) numbered divisions of the Circuit Court. The Circuit Court divisions designated for family court shall be consecutively numbered beginning with the Thirtieth Judicial Circuit, First Division, Family Court. All other Circuit Court divisions shall be consecutively numbered beginning with the Thirtieth Judicial Circuit, First Division, and shall appear on the ballot prior to the designated family court divisions. These designations shall apply for election purposes and all other purposes.

(2) Notwithstanding any provision of ***Section 34 of this Act***[~~KRS 121.180(10)~~] to the contrary, a judicial candidate whose division number is altered pursuant to subsection (1) of this section subsequent to the establishment of a campaign account with the Kentucky Registry of Election Finance may expend the funds contained in the established account for election to the judicial division to which they were elected or appointed.

Section 46. The following KRS section is repealed:

121.015 Definitions for chapter.

121.150 Campaign contribution and loan restrictions and expenditure limitations.

121.180 Reports required of committees and treasurers -- Exemptions -- Administrative fee -- Exceptions -- Use of campaign funds -- Disposition of unexpended campaign funds -- Reports of purveyors of communications and advertising services -- Electronic reporting.

Section 47. This Act takes effect November 7, 2007.

The Committee on Transportation reported **HB 552, HJR 72,** with Committee Substitute and Committee Amendment attached thereto, **SB 83,** with Committee Substitute attached thereto, **SJR 93,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 552, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.430 is amended to read as follows:

(1) The driver of a motor vehicle when traveling upon a down grade shall not coast with the gears of the vehicle in neutral.

(2) The driver of a commercial motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged.

(3) No person operating or in charge of a motor vehicle shall permit it to stand unattended***, except as provided in subsection (4) of this section,*** without first stopping the engine, locking the ignition and removing the key, nor allow it to stand upon any perceptible grade without effectively setting the brake and turning the front wheels to the curb or side of the highway.

(4) A person operating or in charge of a motor vehicle may permit it to stand unattended, without stopping the engine, if the motor vehicle is equipped with a remote ignition starting device and remains locked.

HJR 72, A JOINT RESOLUTION honoring bluegrass music legend Colonel Larry Fuller by directing the Transportation Cabinet to erect signs at the Kentucky Route 194 exits off of U.S. Highway 119 that read "Colonel Larry Fuller Band."

WHEREAS, Colonel Larry Fuller is a native of Phelps, Kentucky who has been singing and writing bluegrass and gospel music for over 35 years; and

WHEREAS, for 17 years, he worked underground in the McCoy-Elkhorn and Chisholm mines in Pike County while writing, recording, and performing bluegrass and gospel music on the weekends; and

WHEREAS, an injury forced him to stop mining, but did not deter him from his musical aspirations; and

WHEREAS, Colonel Larry Fuller has recorded over 20 albums and is still performing to this day; and

WHEREAS, in 2000, Larry Fuller was commissioned an honorary Kentucky Colonel by Governor Paul Patton; and

WHEREAS, in September, 2007, Colonel Larry Fuller will be inducted into the George D. Hay Music Hall of Fame for his great accomplishments in bluegrass music;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall honor the Colonel Larry Fuller Band at the Kentucky Route 194 exits off of U.S. Highway 119 in Pike County with signs that read, "Colonel Larry Fuller Band."

Section 2. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each exit specified in Section 1 of this Resolution that read "Colonel Larry Fuller Band."

The Committee Substitute to **HJR 72** is as follows:

HJR 72, A JOINT RESOLUTION honoring bluegrass music legend Colonel Larry Fuller by directing the Transportation Cabinet to erect signs at the Kentucky Route 194 exits off of U.S. Highway 119 that read "Colonel Larry Fuller Band."

WHEREAS, Kentucky's freight railroads are a vital force in both the state and national economies and a crucial component of the Commonwealth's transportation system; and

WHEREAS, more than a dozen railroads operate in Kentucky, providing service across a 2,600-mile rail network that reaches all corners of the state; and

WHEREAS, railroads are hauling more commodities than ever before, carrying 16 percent of the nation's freight by tonnage and accounting for 40 percent of intercity ton miles and 28 percent of all ton miles; and

WHEREAS, since 1994, short-line railroads have moved over 9,000 car units of coal, which is equivalent to keeping one million coal haul truck loads off our state's highways; and

WHEREAS, it is in the interest of the Commonwealth to help keep short-line railroads commercially competitive and financially viable; and

WHEREAS, other states have established creative financing options to assist short-line railroads in keeping vital rail lines operational and economically viable;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is directed to establish a task force to study the creation of a short-line railroad revitalization program. The task force shall study all aspects of the creation of a short-line railroad revitalization program, including but not limited to the following issues:

(1) The current state of the short-line rail system in Kentucky, including an inventory of existing tracks and recent abandonments;

(2) Maintenance needs on the current short-line system;

(3) Options for financing a revitalization program, including the use of bonds, economic development financing, and dedicated taxes on locomotive diesel fuel; and

(4) The experiences of other states in establishing and operating such a program.

Section 2. The task force shall propose new legislation, if appropriate.

Section 3. The task force shall be composed of 11 members. The members of this task force shall include:

(1) Three members of the House of Representatives, appointed by the Speaker of the House;

(2) Three members of the Senate, appointed by the President of the Senate;

(3) The secretary of the Transportation Cabinet, or the secretary's designee;

(4) The secretary of the Commerce Cabinet, or the secretary's designee;

(5) The secretary of the Economic Development Cabinet, or the secretary's designee; and

(6) Two representatives of the short-line railroads, to be appointed by the Legislative Research Commission.

Final membership of the task force is subject to the consideration and approval of the Legislative Research Commission.

Section 4. The Legislative Research Commission shall provide staffing for the work of the task force.

Section 5. The task force shall meet monthly and it shall convene its first meeting in July, 2007. The task force shall report its findings and recommendations to the Legislative Research Commission for referral to the appropriate interim joint committee or committees by December 31, 2007, at which time the task force shall cease to exist.

Section 6. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HJR 72** is as follows:

HJR 72, By amending the title to read, "A JOINT RESOLUTION establishing a Railroad Revitalization Task Force.".

SB 83, AN ACT relating to speed limits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.390 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business district" means the territory contiguous to and including a highway if, within six hundred (600) feet along the highway, there are buildings in use for business or industrial purposes that occupy three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway;

(b) "Residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is improved with residences or residences and buildings in use for business; and

(c) "State highway" means a highway or street maintained by the Kentucky Department of Highways.

(2) An operator of a vehicle upon a highway shall not drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(3) ***The speed limit for motor vehicles on state highways shall be as follows, unless***~~[If]~~ conditions exist that require lower speed for compliance with subsection (2) of this section, ***or the secretary of the Transportation Cabinet establishes a different speed limit in accordance with subsection (4) of this section***~~[the speed of any vehicle in excess of the limits specified in this section shall be unlawful]~~:

(a) ***Sixty-five (65) miles per hour on interstate highways, and parkways;***

(b) Fifty-five (55) miles per hour on all other state highways; and

(c) Thirty-five (35) miles per hour in a business or residential district~~[For vehicles other than motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any business or residential district, except as provided in subsection (5) of this section, and fifty-five (55) miles per hour in other locations, except where the speed limit has been posted at sixty-five (65) miles per hour;]~~

~~[(b) For motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any location except as provided~~

~~in subsection (5) of this section;~~]

[~~(c) Vehicles using off-street parking facilities offered for public use whether publicly or privately owned, fifteen (15) miles per hour~~].

(4) (a) If the secretary of transportation determines, upon the basis of an engineering and traffic investigation, that any speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, or upon any part of a state highway, the secretary of transportation may establish by official order a reasonable and safe speed limit at the location. The secretary shall not increase any speed limit established by subsection (3) of this section in excess of ***sixty-five (65)***[~~fifty-five (55)~~] miles per hour***, except that, notwithstanding the provision of subsection (3)(a) of this section, the secretary may increase the speed limit on any interstate highway or any parkway with four (4) or more lanes to seventy (70) miles per hour***.

(b) In a highway work zone, the Transportation Cabinet may temporarily reduce established speed limits without an engineering or traffic investigation. A speed limit established under this paragraph shall become effective when and where posted. The Transportation Cabinet shall post signs notifying the traveling public of the temporary highway work zone maximum speed limit. Nothing in this paragraph shall be construed to prevent the Transportation Cabinet from using moveable or portable speed limit signs in highway work zones.

(5) (a) A city or a county may by ordinance establish speed limits within its own jurisdiction, except as provided in paragraph (b) of this subsection.

(b) The alteration of speed limits on state highways within a city or a county shall not be effective until the alteration has been approved by the secretary of transportation. The secretary shall not approve any alteration that could increase any speed limit established by subsection (3)***(b) or (c)*** of this section in excess of fifty-five (55) miles per hour.

(c) If a county determines, upon the basis of an engineering and traffic investigation and study, that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce the congestion, the fiscal court may by ordinance establish "no parking" areas on the highway, or limit the length of time any motor vehicle may be parked in any business district.

[~~(d) Notwithstanding the other limitations in this subsection, the secretary of transportation may establish, by official order, reasonable and safe speed limits on interstate highways and divided highways with four (4) or more lanes and fully controlled access, a speed limit not to exceed sixty-five (65) miles per hour.~~]

(6) The speed limit for motor vehicles in an off-street parking facility offered for public use, whether publicly or privately owned, shall be fifteen (15) miles per hour.

(7) A person shall not drive a motor vehicle at a speed that will impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(8)[~~(7)~~] In every charge for a violation of any speed limit specified in this section, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, and the lawful speed limit applicable at the location where the violation is charged to have occurred.

Section 2. KRS 189.340 is amended to read as follows:

(1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

(2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.

(4) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred (200) feet of any vehicle approaching from the opposite direction.

(5) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on

the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

(6) Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:

(a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation; and

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.

(7) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of ***at least*** sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway or when traffic conditions exist which would prohibit safe use of the right or center lanes.

(8) (a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.

(b) The operator of any motor truck, semitrailer truck, bus, or heavy construction equipment unit, when traveling upon a highway outside of a business or residential district, shall not follow within two hundred fifty (250) feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

The House Committee Substitute to **SB 83** is as follows:

SB 83, AN ACT relating to speed limits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.390 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business district" means the territory contiguous to and including a highway if, within six hundred (600) feet along the highway, there are buildings in use for business or industrial purposes that occupy three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway;

(b) "Residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is improved with residences or residences and buildings in use for business; and

(c) "State highway" means a highway or street maintained by the Kentucky Department of Highways.

(2) An operator of a vehicle upon a highway shall not drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(3) ***The speed limit for motor vehicles on state highways shall be as follows, unless***[~~If~~] conditions exist that require lower speed for compliance with subsection (2) of this section, ***or the secretary of the Transportation Cabinet establishes a different speed limit in accordance with subsection (4) of this section***[~~the speed of any vehicle in excess of the limits specified in this section shall be unlawful~~]:

(a) ***Sixty-five (65) miles per hour on interstate highways, and parkways;***

(b) Fifty-five (55) miles per hour on all other state highways; and

(c) Thirty-five (35) miles per hour in a business or residential district[~~For vehicles other than motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any business or residential district, except as provided in subsection (5) of this section, and fifty-five (55) miles per hour in other locations, except where the speed limit has been posted at sixty-five (65) miles per hour;~~]

[~~(b) For motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any location except as provided in subsection (5) of this section;~~]

[~~(c) Vehicles using off-street parking facilities offered for public use whether publicly or privately owned, fifteen (15) miles per hour~~].

(4) (a) If the secretary of transportation determines, upon the basis of an engineering and traffic investigation, that any speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, or upon any part of a state highway, the secretary of transportation may establish by official order a reasonable and safe speed limit at the location. The secretary shall not increase any speed limit established by subsection (3) of this

section in excess of ***sixty-five (65)***[~~fifty-five (55)~~] miles per hour***, except that, notwithstanding the provisions of subsection (3)(a) of this section, the secretary may increase the speed limit on any of the following segments of highway to seventy (70) miles per hour:***

1. Interstate 24 (entire length);
2. Interstate 64 from Interstate 264 to the West Virginia state line;
3. Interstate 65 from Interstate 264 to the Tennessee state line;
4. Interstate 71 from Interstate 264 to Interstate 275;
5. Interstate 75 from the Tennessee state line to Interstate 275;
6. The Audubon Parkway (entire length);
7. The Julian M. Carroll Purchase Parkway (entire length);
8. The Bert T. Combs Mountain Parkway from Interstate 64 to the beginning of the Mountain Parkway Extension (KY 9009) in Wolfe County;
9. The Edward T. Breathitt Pennyrile Parkway (entire length);
10. The Wendell H. Ford Western Kentucky Parkway (entire length);
11. The Louie B. Nunn Cumberland Parkway (entire length);
12. The Martha Layne Collins Bluegrass Parkway (entire length);and
13. The William H. Natcher Parkway (entire length).

(b) In a highway work zone, the Transportation Cabinet may temporarily reduce established speed limits without an engineering or traffic investigation. A speed limit established under this paragraph shall become effective when and where posted. The Transportation Cabinet shall post signs notifying the traveling public of the temporary highway work zone maximum speed limit. Nothing in this paragraph shall be construed to prevent the Transportation Cabinet from using moveable or portable speed limit signs in highway work zones.

(5) (a) A city or a county may by ordinance establish speed limits within its own jurisdiction, except as provided in paragraph (b) of this subsection.

(b) The alteration of speed limits on state highways within a city or a county shall not be effective until the alteration has been approved by the secretary of transportation. The secretary shall not approve any alteration that could increase any speed limit established by subsection (3)***(b) or (c)*** of this section in excess of fifty-five (55) miles per hour.

(c) If a county determines, upon the basis of an engineering and traffic investigation and study, that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce the congestion, the fiscal court may by ordinance establish "no parking" areas on the highway, or limit the length of time any motor vehicle may be parked in any business district.

[~~(d) Notwithstanding the other limitations in this subsection, the secretary of transportation may establish, by official order, reasonable and safe speed limits on interstate highways and divided highways with four (4) or more lanes and fully controlled access, a speed limit not to exceed sixty-five (65) miles per hour.~~]

(6) ***The speed limit for motor vehicles in an off-street parking facility offered for public use, whether publicly or privately owned, shall be fifteen (15) miles per hour.***

(7) A person shall not drive a motor vehicle at a speed that will impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(8)[~~(7)~~] In every charge for a violation of any speed limit specified in this section, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, and the lawful speed limit applicable at the location where the violation is charged to have occurred.

Section 2. KRS 189.340 is amended to read as follows:

(1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

(2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a

complete stop and such movement may be made safely.

(4) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred (200) feet of any vehicle approaching from the opposite direction.

(5) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

(6) Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:

(a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation; and

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.

(7) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of ***at least*** sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway or when traffic conditions exist which would prohibit safe use of the right or center lanes.

(8) (a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.

(b) The operator of any motor truck, semitrailer truck, bus, or heavy construction equipment unit, when traveling upon a highway outside of a business or residential district, shall not follow within two hundred fifty (250) feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

SJR 93, A JOINT RESOLUTION honoring the memory of Kentucky native and former President Abraham Lincoln.

WHEREAS, President Lincoln, the sixteenth President of the United States, and arguably the greatest President in our nation's history, was a native son of the Commonwealth; and

WHEREAS, President Lincoln was born on February 12, 1809, in a log cabin near Hodgenville, Kentucky, to Thomas and Nancy Hanks Lincoln; and

WHEREAS, President Lincoln became a member of the Illinois legislature in 1832 and held his seat until 1842; he was then elected to the United States House of Representatives in 1846, where he fought vigorously against the Mexican War and slavery; and

WHEREAS, President Lincoln, along with running mate Hannibel Hamblin, was elected on November 6, 1860, and thereby became the sixteenth President; and

WHEREAS, on January 1, 1863, President Lincoln's Emancipation Proclamation went into effect, thereby proclaiming freedom for all slaves in areas of the Confederacy not under Union control; and on November 19, 1863, President Lincoln delivered his famous Gettysburg Address, which dedicated the battlefield there to the soldiers who had perished and called upon the living to finish the task which the dead soldiers had begun; and

WHEREAS, President Lincoln was re-elected to the White House on November 8, 1864, with running mate Andrew Johnson, making his famous call for eventual conciliation with the rebellious Confederacy proclaiming, "With malice toward none, with charity for all let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations," thereby seeking to end the most destructive war in American history with a just and lasting peace; and

WHEREAS, on April 11, 1865, General Robert E. Lee surrendered to General Ulysses S. Grant, ending this bloody contest and setting the stage for a new America, founded on freedom and justice for all; and

WHEREAS, President Lincoln declared that he would support voting rights for certain blacks, in an effort to create that new and just society; and

WHEREAS, on Good Friday, April 14, 1865, President Lincoln was attending the play entitled "Our American Cousin" at Ford's Theatre and was shot at about 10:15 p.m. by John Wilkes Booth and perished the next morning; and

WHEREAS, President Abraham Lincoln is remembered for his vital role as the leader in preserving the Union during the Civil War and beginning the process that led to the end of slavery in the United States; he is also remembered for his great character, his speeches and letters, and as a man of humble origins whose determination and perseverance led him to the nation's highest office; and

WHEREAS, we should look for every opportunity to celebrate the life and achievements of the most important Kentuckian of all and let everyone know of Abraham Lincoln's Kentucky roots;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, hail former President Abraham Lincoln for his sacrifices and devotion to equality and justice for every citizen of this nation.

Section 2. The Commonwealth of Kentucky wants to add to the many accolades for former President Abraham Lincoln by naming one of the busiest highways in the state and the U.S. Highway near his birthplace in his honor.

Section 3. The Transportation Cabinet is directed to name Interstate 65, from the Jefferson/Bullitt County line to the Kentucky/Tennessee state line, the "Abraham Lincoln Memorial Expressway."

Section 4. The Transportation Cabinet is directed to name the entire length of U.S. 31E, the "Lincoln Heritage Highway."

Section 5. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs on Interstate 65 at the Jefferson/Bullitt County line and the Kentucky/Tennessee state line, and at intervals in between, that read "Abraham Lincoln Memorial Expressway" and at each end of U.S. 31E, and at intervals in between, that read "Lincoln Heritage Highway."

The House Committee Substitute to **SJR 93** is as follows:

SJR 93, A JOINT RESOLUTION honoring the memory of Kentucky native and former President Abraham Lincoln.

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of reasons that they were deserving of the honor; and

WHEREAS, these individuals have included former Governors, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall honor the memory of Bennett Shortridge by naming the old bridge on Kentucky Route 80/U.S. Highway 460 in the town of Millard, in Pike County, the "Bennett Shortridge Memorial Bridge." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at the locations specified in this section that read "Bennett Shortridge Memorial Bridge."

Section 2. The Transportation Cabinet shall honor Jesse R. Green at the entrance to Marshall County Technical Center on U.S. Highway 641 and in front of Marshall County Technical Center on U.S. Highway 68 in Marshall County with signs that read, "Home of Jesse R. Green SkillsUSA Kentucky State Welding Champion." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at the locations specified in this section that read "Home of Jesse R. Green SkillsUSA Kentucky State Welding Champion."

Section 3. The Transportation Cabinet is shall name "Thoroughbred Run," the Paris By-Pass in the City of Paris, from its intersection with U.S. 27-68 North and East to its intersection with U.S. 68 "Martin Luther King, Jr. Boulevard." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each end of the route specified in this section that read "Martin Luther King, Jr. Boulevard."

Section 4. The Transportation Cabinet shall honor 2006 National League Cy Young award winner Brandon Webb by naming U.S. Highway 60 from the Ashland City limit to Beech Street in the city of Ashland, the "Brandon Webb Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each end of the route specified in this section that read "Brandon Webb Highway."

Section 5. The Transportation Cabinet shall honor former state representative John W.D. Bowling by naming the Danville/U.S. 127 Bypass from Harrodsburg Road to Stanford Road in the city of Danville the "John W.D. Bowling Bypass." The

Transportation Cabinet shall, within 30 days of the effective date of this Resolution erect signs at the location specified in this section and at intervals in between that read "John W.D. Bowling Bypass."

Section 6. The Transportation Cabinet shall honor the memory of Private First Class Ottis Reed by naming the bridge on the new U.S. Highway 119 currently under construction in the town of Meta, with signs at each end of the bridge that read, "Private Ottis Reed Memorial Bridge." The Transportation Cabinet shall, within 30 days of completion and opening of the bridge, erect signs at the locations specified in this section that read "Private Ottis Reed Memorial Bridge."

Section 7. The Transportation Cabinet shall honor the Colonel Larry Fuller Band at the Kentucky Route 194 exits off of U.S. Highway 119 in Pike County with signs that read, "Colonel Larry Fuller Band." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each exit specified in this section that read "Colonel Larry Fuller Band."

Section 8. The Transportation Cabinet shall designate Interstate 75 within Fayette County as the "Tuskeegee Airmen Trail," and shall, within 30 days of the effective date of this Resolution, erect signs at each end of Interstate 75 in Fayette County and at intervals in between that read "Tuskegee Airmen Trail."

Section 9. The Transportation Cabinet is directed to name Interstate 65, from the Jefferson/Bullitt County line to the Kentucky/Tennessee state line, the "Abraham Lincoln Memorial Expressway," and name the entire length of U.S. 31E, the "Lincoln Heritage Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs on Interstate 65 at the Jefferson/Bullitt County line and the Kentucky/Tennessee state line, and at intervals in between, that read "Abraham Lincoln Memorial Expressway" and at each end of U.S. 31E, and at intervals in between, that read "Lincoln Heritage Highway."

Section 10. The Transportation Cabinet is directed to honor and salute the military history of Skaggs brothers Carl, Escom, Hurl, Hunter, and Wilbur by naming Kentucky Route 172 in Morgan County, from the town of Crockett to the Johnson County line, the "Skaggs Brothers Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at the locations specified in this section that read "Skaggs Brothers Highway."

Section 11. The Transportation Cabinet shall honor the memory of Billy Ray Patton, whose life was taken in action during the Korean War, by naming the bridge located on U.S. Highway 23 in Lawrence County, near the Lawrence County/Boyd County line, the "Billy Ray Patton Memorial Bridge." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at both ends of the bridge specified in this section that read "Billy Ray Patton Memorial Bridge."

The House Committee Amendment No. 1 Title to **SJR 93** is as follows:

SJR 93, By amending the title to read "A JOINT RESOLUTION naming portions of various state roads and bridges for distinguished individuals and groups.".

The Committee on Appropriations and Revenue reported **HB 347, HB 467,** and **HB 549,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 347, AN ACT relating to tourism development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.536 is amended to read as follows:

(1) (a) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

(b) The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected.

(c) For all tourism attraction projects except those identified in paragraph (d) of this subsection, the term of the agreement granting the sales tax refund shall be ten (10) years***, plus any extension granted under Section 2 of this Act***.

(d) The term of the agreement granting the sales tax refund shall be twenty (20) years for a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine that is:

1. a. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and

b. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021 or the Kentucky Horse Park Commission pursuant to the provisions of KRS 148.258 to 148.320; or

2. Located on property owned or leased by the federal government and identified as a national park.

(e) This time period shall commence on the later of:

1. The final approval for purposes of the inducements; or
2. The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) (a) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(c) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs.

1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds.

(b) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(d) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or fifty percent (50%) of the approved costs.

1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through sales tax refunds.

(4) Notwithstanding subsection (3) of this section, to the extent that the tourism attraction defined in KRS 148.851 includes a lodging facility located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency, the total sales tax refund allowed to the approved company over the term of the agreement shall be the lesser of the total amount of sales tax liability or fifty percent (50%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to five percent (5%) of the approved cost. Notwithstanding the foregoing five percent (5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through the sales tax refunds.

(5) By October 1 of each year the Department of Revenue shall certify to the authority and the secretary of the Commerce Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsections (1) and (4) of this section.

(6) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(7) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this section and KRS 148.851 to 148.860.

Section 2. KRS 148.859 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company. Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) and (4) for tax years commencing on or after July 1, 2004;

(b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;

(c) The following provisions:

1. For all tourism attraction projects except a tourism attraction project identified in subparagraph 2. of this paragraph, the term shall be ten (10) years from the later of:

a. The date of the final approval of the project; or

b. The original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;

2. For a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine:

a. i. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and

ii. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021; or the Kentucky Horse Park Commission pursuant to the provision of KRS 148.258 to 148.320; or

b. Located on property owned or leased by the federal government and identified as a national park;

the term shall be twenty (20) years from the later of the date of the final approval of the project, or the original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;

3. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Department of Revenue that the approved company is in compliance with this section; and

4. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:

a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; or

b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days; and

(d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:

1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

2. The term of the agreement shall not be extended; and

3. The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

(4) An approved tourist attraction that has been in operation for a minimum of three (3) years may apply to the authority for a one (1) time extension of the term of the agreement, to recover approved costs authorized under the original agreement and any existing amendments. The authority shall grant the extension for a maximum of six (6) years, provided that the approved company demonstrates to the satisfaction of the authority that:

(a) The tourist attraction historically attracts at least fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth of Kentucky and is operating and open to the public for at least three hundred (300) days annually; and

(b) The approved company will make additional capital expenditures, as defined in Section 263 of the Internal Revenue Code, with respect to the approved project in an amount equal to or greater than ten percent (10%) of

the approved costs set forth in the original agreement and any existing amendments. These additional expenditures shall be incurred no later than the expiration date of the original agreement without regard to any extension and shall be actually paid no later than twelve (12) months following that same date. If the expenditures are not incurred or made within the specified time-frame, the authority shall revoke the extension.

(5) In granting an extension under subsection (4) of this section, the authority shall not increase the amount of approved costs as set forth in the original agreement and any existing amendments. The approved company may recover its approved costs with sales tax generated from the additional capital expenditures required under paragraph (b) of subsection (4) of this section, but only if the additional capital expenditures are not subject to a separate agreement under this section, and provided the total amount of sales tax eligible for refund shall not exceed the amount eligible under the original agreement and any existing amendments.

(6) The authority shall notify the Department of Revenue when an approved company has been granted an extension under subsection (4) of this section and when the approved company has met the requirements for the extension. The Department of Revenue shall not grant a refund for the extension period until the requirements have been met.

HB 467, AN ACT relating to Governor William Owsley.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Pleasant Retreat, the home of Kentucky Governor William Owsley in Lancaster, Kentucky, is designated as a state shrine.

HB 549, AN ACT relating to tax increment financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that the establishment of development areas, local development areas, and projects which result in increased property values, increased employment opportunities, and increased economic activity in communities within the Commonwealth serves a public purpose.

(2) The General Assembly further finds and declares that the authority prescribed in Sections 1 to 20 of this Act, and the purposes to be accomplished thereunder, are proper.

(3) A city or county creating or expanding a development area or local development area, shall, to the greatest extent it determines to be reasonably feasible in carrying out the provisions of Sections 1 to 20 of this Act, afford maximum opportunity for the rehabilitation, development, renovation, or improvement of a development area or local development area by private enterprise.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The purposes of Sections 1 to 20 of this Act are as follows:

(1) Section 4 of this Act provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and devote local resources to support the development of projects in those local development areas. Local development areas established under Section 4 of this Act and projects within local development areas shall not be eligible for participation by the Commonwealth.

(2) Sections 5, 6, and 7 of this Act provide a framework for cities and counties to establish development areas within their jurisdictional boundaries, and to devote local resources to providing redevelopment assistance and supporting projects in those development areas. Projects within development areas established pursuant to Sections 5, 6, and 7 of this Act shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Sections 1 to 20 of this Act; and

(3) Sections 15, 16, 17, 18 and 19 of this Act establish the requirements that must be met by a project within a development area for the project to receive participation from the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 20 of this Act:

(1) "Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The Commonwealth or governing body may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date, the agency that is a party to the project grant agreement shall notify the office. The agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area;

(2) "Agency" means:

(a) An urban renewal and community development agency established under KRS Chapter 99;

(b) A development authority established under KRS Chapter 99;

(c) A nonprofit corporation;

(d) A housing authority established under KRS Chapter 80;

(e) An air board established under KRS 183.132 to 183.160;

(f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;

(g) A riverport authority established under KRS 65.510 to 65.650; or

(h) A designated department, division, or office of a city or county;

(3) "Approved project costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;

(b) The cost of acquiring land or rights in land and any cost incident thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of a project which is not paid by the contractor or contractors or otherwise provided;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;

(e) All costs that are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of a project; and

(f) All other costs of a nature comparable to those described in this subsection;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5) "City" means any city, consolidated local government, or urban-county government;

(6) "Commencement date" means:

(a) The date on which a local development area agreement is executed; or

(b) The date on which a local participation agreement is executed; or

(c) The date on which a project grant agreement is executed;

(7) "Commission" means the State Tax Increment Financing Commission established by Section 14 of this Act;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;

(10) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;

(11) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(12) "Development area" means an area established under Sections 5, 6, and 7 of this Act;

(13) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 26, 28, 34, or 48 of KRS Chapter 154;

(14) "Establishment date" means the date on which a development area or a local development area is created. If the development area, development area plan, or local development area is modified or amended subsequent to the original establishment date, the modifications or amendments shall not extend the existence of the development area or local development area beyond what would be permitted under Sections 1 to 20 of this Act from the original establishment date;

(15) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual approved project costs are incurred;

(16) "Governing body" means the body possessing legislative authority in a city or county;

(17) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects, or grant or loan programs as described in paragraph (c) of subsection (32) of this section, in a development area or a local development area;

(18) "Incremental revenues" means:

(a) The amount of revenues received by a taxing district or by the Commonwealth, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area; or

(b) The amount of revenues received by a taxing district as determined by subtracting old revenues from new revenues in a calendar year with respect a local development area;

(19) "Issuer" means a city, county, or agency issuing increment bonds;

(20) "Local development area" means a development area established under Section 4 of this Act;

(21) "Local development area agreement" means an agreement entered into under Section 4 of this Act;

(22) "Local participation agreement" means the agreement entered into under Section 12 of this Act;

(23) "Local tax revenues" means:

(a) Revenues derived by a city or county from one (1) or more of the following sources:

1. Real property ad valorem taxes; and

2. Occupational taxes, excluding occupational taxes that have already been pledged to support an economic development project within the development area; and

(b) Revenues derived by any other taxing district from real property ad valorem taxes;

(24) "Low-income household" means a household in which gross income is no more than two hundred percent (200%) of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2);

(24) "New revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area or a local development area in any calendar year beginning with the year in which the activation date occurred; or

(b) The amount of state tax revenues received by the Commonwealth with respect to a project in any calendar year beginning with the year in which the activation date occurred;

(25) "Office" means the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue, established by Section 24 of this Act;

(26) "Old revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area or a local development area during the last calendar year prior to the commencement date; or

(b) 1. The amount of state tax revenues received by the Commonwealth during the last calendar year prior to the commencement date. If the office determines that the amount of state tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the office may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of state tax revenues. The amount determined by the office shall be specified in the project grant agreement. If state tax revenues were derived from the project prior to the commencement date, old revenues shall increase each calendar year by:

a. The percentage increase, if any, of the CPI or a comparable index; or

b. An alternative percentage increase that is determined to be appropriate by the office.

The method for increasing old revenues shall be set forth in the project grant agreement;

2. If state revenues were derived from the project prior to the commencement date, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.

(27) "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or

(c) Increment bonds for the payment, or redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(28) "Planning unit" means a planning commission established pursuant to KRS Chapter 100;

(29) "Project" means any property, asset, or improvement located in a development area or a local development area and certified by the governing body as:

(a) Being for a public purpose; and

(b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and

(c) Contributing to economic development or tourism; and

(d) Meeting the additional requirements established by Section 16 or 17 of this Act if incremental revenues from the Commonwealth are to be included;

(30) "Project grant agreement" means an agreement entered into under Section 18 of this Act;

(31) "Real property ad valorem tax revenue" means revenue derived from real property ad valorem taxes levied under KRS 132.020(1)(a);

(32) "Redevelopment assistance," as utilized within a development area, includes the following:

(a) Technical assistance programs to provide information and guidance to existing, new, and potential businesses and residences;

(b) Programs to market and promote the development area and attract new businesses and residents;

(c) Grant and loan programs to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;

(d) Programs to obtain a reduced interest rate, down payment, or other improved terms for loans made by private, for-profit, or nonprofit lenders to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;

(e) Local capital improvements, including but not limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, and public buildings and facilities;

(f) Improved or increased provision of public services, including but not limited to police or security patrols, solid waste management, and street cleaning;

(g) Provision of technical, financial, or other assistance in connection with:

1. Applications to the Environmental and Public Protection Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.01-450; or

2. Site remediation by means of the Voluntary Environmental Remediation Program to remove environmental contamination in the development area, or lots or parcels within it, pursuant to KRS 224.01-510 to 224.01-532; and

(h) Direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:

1. Assembly and replatting of lots or parcels;

2. Rehabilitation of existing structures and improvements;

3. Demolition of structures and improvements and construction of new structures and improvements;

4. Programs of temporary or permanent relocation assistance for businesses and residents;

5. The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and

6. The acquisition and construction of projects;

(33) "Special fund" means a special fund created under Section 11 of this Act in which all incremental revenues shall be deposited;

(34) "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:

(a) Real property ad valorem taxes;

(b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;

(c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;

(d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and

(e) Sales taxes levied under KRS 139.200, excluding sales already pledged for:

1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and

2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;

(35) "Taxing district" means any city, county, or special taxing district other than school districts and fire districts; and

(36) "Termination date" means:

- *(a) For a development area, a date established by the ordinance creating the development area that is no more than twenty (20) years from the establishment date, provided that if a project grant agreement for a project within a development area or a local participation agreement relating to the development area has a termination date that is later than the termination date established in the ordinance, the termination date for the development area shall be extended to the termination date of the project grant agreement, or local participation agreement. However, the termination date for the development area shall in no event be more than forty (40) years from the establishment date;*
- *(b) For a local development area, a date established by the ordinance creating the local development area that is no more than twenty (20) years from the establishment date, provided that if a local development area agreement relating to the local development area has a termination date that is later than the termination date established in the ordinance, the termination date for the local development area shall be extended to the termination date of the local development area agreement;*
- *(c) For a local participation agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local participation agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the local participation agreement relates;*
- *(d) For a local development area agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local development area agreement shall in no event be more than forty (40) years from the establishment date of the local development area to which the development area agreement relates;*
- *(e) For a project grant agreement satisfying the requirements of Section 16 of this Act or subsection (2)(b)1. of Section 17 of this Act, a date established by the project grant agreement that is no more than twenty (20) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates; and*
- *(f) For a project grant agreement satisfying the requirements of subsection (2)(b)2. of Section 17 of this Act, a date established by the project grant agreement that is no more than thirty (30) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city or county may establish a local development area pursuant to this section, subject to the following conditions:

- *(a) A local development area shall be a previously undeveloped tract of land;*
- *(b) No more than one thousand (1,000) acres shall be approved for a local development area in any twelve (12) month period in any county;*
- *(c) The establishment or expansion of the local development area shall not cause the assessed value of taxable real property within all local development areas and development areas of the city or county establishing the local development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction; and*
- *(d) Unless the ordinance establishing a local development area requires an earlier termination date, a local development area shall cease to exist on the termination date.*

(2) A city or county shall take the following steps to establish or modify a local development area:

- *(a) The city or county shall hold a public hearing to solicit input from the public regarding the local development area. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed local development area. The notice shall include a summary of the projects proposed for the local development area;*
- *(b) After the public hearing, the city or county shall adopt an ordinance which shall include the following provisions:*
    - *1. A description of the boundaries of the local development area;*
    - *2. The establishment date and the termination date;*
    - *3. A name for the local development area for identification purposes;*
    - *4. Approval of any agreements relating to the local development area;*
    - *5. A provision establishing a special fund for the local development area or any project within the local development area;*
    - *6. A requirement that any entity other than the governing body that receives financial assistance under the local development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;*

7. A provision for periodic analysis and review by the governing body of the development activity in the local development area;

8. Designation of the agency or agencies responsible for oversight, administration, and implementation of the local development ordinance; and

9. Any other provisions, findings, limitations, rules, or procedures regarding the proposed local development area or a project within the local development area and its establishment or maintenance deemed necessary by the city or county; and

(c) If incremental revenues or other resources are to be pledged from taxing districts other than the city or county establishing the local development area, a local development area agreement shall be executed in accordance with the provisions of subsection (4) of this section.

(3) Funding for projects in a local development area shall be provided in accordance with Section 9 of this Act.

(4) A local development area agreement shall be executed among the agencies and taxing districts involved in administering, providing financing, or pledging incremental revenues within the local development area. The local development area agreement shall be adopted by a city or county by ordinance and by any other taxing authority or agency by resolution, and shall include but not be limited to the following provisions:

(a) Identification of the parties to the local development area agreement and the duties and responsibilities of each entity under the agreement;

(b) Specific identification of the tax increments released or pledged by type of tax by each taxing district;

(c) The anticipated benefit to be received by each taxing district for the release or pledge, including:

1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local development area agreement; and

2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;

(d) A detailed description of the local development area;

(e) A description of each proposed project, including an estimate of the costs of construction, acquisition, and development;

(f) A requirement that pledged incremental revenues will be deposited in a special fund pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;

(g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local development area agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

(h) The commencement date, activation date, and termination date; and

(i) Any other provisions not inconsistent with Sections 1 to 20 of this Act deemed necessary or appropriate by the parties to the agreement.

(5) Any pledge of incremental revenues in a local development area agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local area development agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. No ordinance in conflict with a local area development agreement shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or county may establish a development area pursuant to Sections 5, 6, and 7 of this Act to encourage reinvestment in and development and reuse of areas of the city or county under the following conditions:

(1) The area shall be contiguous and shall be no more than three (3) square miles;

(2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction;

(3) The governing body of the city or county shall determine that the area has two (2) or more of the following conditions:

(a) Substantial loss of residential, commercial, or industrial activity or use;

(b) Forty percent (40%) or more of the households are low-income households;

(c) More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;

(d) Substantial abandonment of residential, commercial, or industrial structures;

(e) Substantial presence of environmentally contaminated land;

(f) Inadequate public improvements or substantial deterioration in public improvements or such as streets, street lighting, curbs, gutters, sidewalks, parks, and recreational facilities; or

(g) Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the area's present condition and use.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city or county seeking to establish a development area shall adopt a development plan. The development plan may be developed by a city, a county, or a city and county jointly, or may be proposed by an agency or by a private entity. The plan shall include the following:

(a) Assurances that the proposed development area meets the requirements of subsections (1) and (2) of Section 5 of this Act, and identification of the conditions in the proposed development area that meet the criteria set forth in subsection (3) of Section 5 of this Act;

(b) A detailed description of the existing uses and conditions of real property in the development area;

(c) A map showing the boundaries of the proposed development area;

(d) A map showing proposed improvements and uses therein, including the identification of any proposed projects, along with a narrative description of the proposed improvements, projects, and uses within the development area;

(e) A description of the redevelopment assistance proposed to be employed in the development area, including the manner and location of such assistance;

(f) A detailed financial plan containing projections of the cost of the proposed redevelopment assistance to be provided, proposed projects to be funded, proposed sources of funding for these costs, projected incremental revenues, and the projected time frame during which financial obligations will be incurred;

(g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance anticipated to be required to implement the development plan; and

(h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.

(2) Prior to adoption of a development plan, the city or county shall hold a public hearing to solicit input from the public regarding the plan. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed development area. The notice shall include a summary of the redevelopment assistance proposed to be employed, identification of projects proposed for the development area, and a statement that a copy of the development plan is available for inspection at the business office of the city or county.

(3) Prior to publication of a hearing notice pursuant to subsection (2) of this section, a copy of the development plan shall be filed with the city clerk of each city having jurisdiction within the proposed development area, and with the county fiscal court.

(4) A city or county having jurisdiction within the proposed development area not initially participating in a proposed development plan shall have the opportunity to determine whether it will participate in the plan. The city or county shall determine and notify the entity proposing the development plan in writing within thirty (30) days after the public hearing whether it will participate in the plan.

(5) At the end of the time period established in subsection (4) of this section, the city or county may adopt an ordinance establishing a development area in accordance with Section 7 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) An ordinance establishing a development area shall include the following provisions:

(a) A description of the boundaries of the development area;

(b) The establishment date;

(c) The termination date, including a provision that allows the termination date to be extended as provided in subsection (36) of Section (3) of this Act;

(d) A name for the development area for identification purposes;

(e) A finding that the conditions in the development area meet the criteria described in Section 5 of this Act;

(f) A finding supporting the need to employ redevelopment assistance in the development area;

(g) A provision adopting the development plan required by subsection (1) of Section 6 of this Act;

(h) Approval of any agreements relating to the development area, including any participation agreements;

(i) A provision establishing a special fund for the development area or any project within the development area;

(j) A requirement that any entity other than the governing body that receives financial assistance under the development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;

(k) A provision for periodic analysis and review by the governing body of the development activity in the development area, a review of the progress in meeting the stated goals of the development area, and a requirement that the review and analysis be forwarded to the office if the development activity includes projects subject to a project grant agreement;

(l) Designation of the agency or agencies responsible for oversight, administration, and implementation of the development ordinance; and

(m) Any other provisions, findings, limitations, rules, or procedures regarding the proposed development area or a project within the development area and its establishment or maintenance deemed necessary by the city or county.

(2) An ordinance establishing a development area may designate an existing agency to oversee and administer implementation of a development area ordinance or a portion thereof.

(3) Unless the ordinance establishing a development area requires an earlier termination date, a development area shall cease to exist on the termination date.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any amendment, change, or revision to a development plan adopted as part of a development area established pursuant to Sections 5, 6, and 7 of this Act, including the addition of a project, use of new or different redevelopment assistance within the development area, or amendment of the development area boundaries shall be made as follows, provided that any amendment adopted shall not extend the existence of development area beyond the termination date:

(1) An amendment to the development plan shall be adopted by the city or county. The proposed development plan amendment shall include the following:

(a) Identification of the development area to which the amendment applies;

(b) A copy of the development plan as revised by the amendment;

(c) A narrative description of the proposed changes to the original development area plan and how those changes will impact the original development plan;

(d) If the amendment changes the boundaries, or in any way amends maps filed with the original development plan, a revised map identifying the new boundaries, improvements, or projects proposed in the amendment;

(e) A description of the redevelopment assistance proposed to be employed, including the manner and location of such assistance relating to the proposed amendment;

(f) A financial plan relating to the proposed amendment, including the proposed cost of providing any redevelopment assistance and proposed projects to be funded, the sources of funding to meet those costs, projected incremental revenues, and the projected time period during which financial obligations will be incurred;

(g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance required to implement the proposed amendment; and

(h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.

(2) Prior to the adoption of an amendment to a development plan, the city or county shall comply with the hearing and notice provisions set forth in subsections (2) and (3) of Section 6 of this Act. The notice provided in relation to an amendment to the development plan shall include a summary of how the amendment changes the development plan and shall identify new redevelopment assistance and projects proposed by the amendment.

(3) The city or county shall adopt any amendment to the development plan and any amendment to the development area by ordinance. The ordinance shall include the following provisions:

(a) A provision adopting the amendment to the development plan required by subsection (1) of this section;

(b) Approval of any participation agreements or other agreements relating to the amendment;

(c) The identification of any new or different state or local tax revenues pledged by any taxing district or the Commonwealth to support the provision of redevelopment assistance or projects identified in the amendment;

(d) A finding that the amendment does not increase the aggregate value of taxable real property included in all the community redevelopment areas and the local community development areas within the jurisdiction of the city or county to more than twenty percent (20%) of the total value of taxable real property within its jurisdiction; and

(e) Any other provisions, findings, limitations, rules, or procedures regarding the amendment deemed necessary by the city or county.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) To provide funding for redevelopment assistance or projects in a development area or a projects in a local development area:

(a) Any taxing authority may, in addition to any other pledge permitted by law to secure its obligations, pledge up to one hundred percent (100%) of the incremental local tax revenues generated in the development area or local development area from a project within the development area or local development area for up to twenty (20) years from the activation date;

(b) The amount of incremental revenues shall be determined for each type of tax separately; and

(c) Local tax revenues from a development area that have not been pledged to support redevelopment assistance or projects within the development area, or from a local development area that have not been pledged to support projects within the local development area, may be used to support other economic development programs, provided that local tax revenues shall not be pledged more than once. Thus, local tax revenues pledged to support increment bonds issued for the development area or local development area shall not also be pledged to support a specific project within the development area or local development area, and those revenues shall not be pledged to support any other program, development, or undertaking.

(2) Any city may pledge revenues collected under a special assessment imposed under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

(3) Any county may levy a special assessment under the terms and conditions established for cities under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

(4) Any pledge of incremental revenues or other revenues related to a development area by a taxing authority shall be accomplished through the execution of a local participation agreement in accordance with Section 12 of this Act.

(5) Any pledge of incremental revenues or other revenues related to a local development area by a taxing authority shall be accomplished through the execution of a local development area agreement in accordance with Section 4 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city, county, or agency with bonding authority may issue increment bonds and may pledge incremental revenues to the payment of the increment bonds.

(1) Increment bonds shall be issued, administered, and regulated only by ordinance adopted by the governing body which shall:

(a) Declare the necessity of the incremental bond issue;

(b) State the principal amount or maximum principal amount of the increment bonds to be issued;

(c) State the purpose of the increment bond issue;

(d) State or provide for the date of, and the dates and amounts or maximum amount of, maturities or principal payments on the increment bonds;

(e) State any provisions for a special fund, mandatory sinking fund, mandatory sinking fund redemption, or for redemption prior to maturity;

(f) Provide for the rate or rates of interest, or maximum rate or rates of interest, or the method for establishing the rate or rates of interest to be paid on the increment bonds;

(g) State any provision for a designated officer of the issuer to determine any of the specific terms required to be stated or provided for in this paragraph, subject to any limitations stated in the proceedings;

(h) If the increment bonds are payable solely from incremental revenues, include a determination that the incremental revenues are adequate to make the debt payments so long as the increment bonds are outstanding; and

(i) Include any other provisions deemed appropriate by the governing body.

(2) Increment bonds issued pursuant to this section shall not mature on a date beyond the termination date of the development area or local development area.

(3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this section shall mature as determined by the governing body consistent with the termination date.

(4) The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds insofar as they do not conflict with the provisions of Sections 1 to 20 of this Act. If they do conflict, the provisions of Sections 1 to 20 of this Act shall apply.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

During any time when incremental revenues have been pledged pursuant to a local participation agreement, local *development area agreement, or grant project agreement, or that increment bonds are outstanding, the city, county, or issuer, as the case may be, shall maintain a special fund, which shall be pledged for the retirement of increment bonds, if such bonds are outstanding, and the payment of project costs in a development area or local development area, or providing redevelopment assistance in a development area.*

(1) Officials charged with collecting revenues for any taxing district that has pledged incremental revenues under a local participation agreement or a local development area agreement shall, for each year a local participation agreement or local development area agreement is in effect or any increment bonds are outstanding with respect to a development area or local development area, submit those incremental revenues for deposit in the special fund. The amount of incremental revenues shall be determined under Section 20 of this Act.

(2) Funds deposited in a special fund shall be disbursed at the times and in the amounts required to pay the costs of any debt charges on incremental bonds, approved project costs, and, in a development area, redevelopment assistance. However, there shall be no disbursements for other redevelopment assistance in a development area, or approved project costs in a development area or local development area, if the funds are required to pay debt charges on increment bonds.

(3) Amounts in a special fund which exceed the amount required to pay debt charges and, in a development area, costs of redevelopment assistance in any fiscal year shall be used to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues. Amounts beyond this may be used to pay the costs of additional projects or, in a development area, redevelopment assistance.

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A local participation agreement shall be executed among the agencies and taxing districts involved in administering or providing financing or pledging incremental revenues to support the implementation of a development plan in a development area. The local participation agreement shall be adopted by a city or county by ordinance and by any other taxing authority or agency by resolution, and shall include but not be limited to the following provisions:

(a) Identification of the parties to the local participation agreement and the duties and responsibilities of each entity under the agreement;

(b) Specific identification of the incremental revenues released or pledged by type of tax by each taxing district;

(c) The anticipated benefit to be received by each taxing district for the release or pledge, including:

1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local participation agreement; and

2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;

(d) A detailed description of the development area;

(e) A description of each proposed project that is the subject of a local participation agreement, including an estimate of the costs of construction, acquisition, and development;

(f) A requirement that pledged incremental revenues will be deposited in a special fund established pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;

(g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local participation agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

(h) The commencement date, activation date, and termination date; and

(i) Any other provisions not inconsistent with Sections 1 to 20 of this Act deemed necessary or appropriate by the parties to the agreement.

(2) Any pledge of incremental revenues in a local participation agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local participation agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. An ordinance in conflict with a local participation agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Real property located within a development area shall not be eligible for participation in a program granting property assessment or reassessment moratoriums pursuant to KRS 99.600.

SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The State Tax Increment Financing Commission is hereby created as an independent agency of the state within the meaning of KRS Chapter 12. The commission shall be composed of the following members, or their designees as authorized in subsection (4) of this section:

(a) The secretary of the Finance and Administration Cabinet, who shall be the chairman thereof;

(b) The state budget director, who shall be the vice chairman thereof;

(c) The secretary of the Cabinet for Economic Development;

(d) The secretary of the Commerce Cabinet;

(e) The commissioner of the Department for Local Development, who shall be the secretary thereof;

(f) The president of the Kentucky League of Cities; and

(g) The chairman of the board of directors for the Kentucky Chamber of Commerce.

(2) The commission shall review all applications for state participation in tax increment financing projects and shall approve those proposals it determines meet the requirements established by Sections 15, 16, 17, 18, and 19 of this Act.

(3) Members of the commission shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.

(4) (a) Each member of the commission may designate, by an instrument in writing over his or her signature and filed with the secretary as a public record of the commission, a designee with full authority to attend in the absence of the appointing member, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission.

(b) Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis, but in no case for a period of more than four (4) years, whenever the appointing member is unable to attend.

(c) Any designation shall be subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission.

(d) Any party transacting business with the commission or materially affected thereby shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, time of designation, scope thereof, and, if of a continuing nature, whether the same has been revoked and when. The joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefore with acceptable identification of the business or transaction referred, and of the requesting party's interest therein.

(e) Each alternate shall be a person on the staff of the appointing member or in the employ of his or her agency or department of the government of the Commonwealth.

(5) Any four (4) members of the commission or their designees shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(6) The commission shall meet at least two (2) times each year, but may meet more frequently upon the call of the chairman or a request made by any four (4) members of the commission.

(7) The commission shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the commission with necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

(8) The commission shall prepare bylaws and shall establish procedures applicable to the operations of the commission.

(9) On or before February 15, 2008, and each year thereafter, the commission shall provide the Governor and the Legislative Research Commission with an annual report, which shall include, but shall not be limited to the following for the prior calendar year:

(a) A list of applications considered by the commission during the prior calendar year, including the name of the applicant, a description of the project, the local tax revenues or other revenues pledged, the level of participation requested from the Commonwealth, and whether the application was approved; and

(b) For each approved application, the report shall include:

1. The total commitment made by the Commonwealth, detailed by type of tax and estimated incremental revenues pledged for each tax;

2. The length of the commitment; and

3. The portion of the development area included in the project.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth shall offer two (2) tax increment financing participation programs. The first program, the criteria and details of which are set forth in Section 16 of this Act, relates to a pledge of state real property ad valorem taxes only. The second program, the criteria and details of which are set forth in Section 17 of this Act, relates to a pledge of state tax revenues.

(2) (a) A city or county that has established a development area pursuant to Sections 5, 6, and 7 of this Act, or an agency designated as the entity managing a development area established pursuant to Sections 5, 6, and 7 of

this Act, may submit an application to the office requesting that the Commonwealth participate in a project.

1. The application shall identify the specific program under which state participation is being requested and shall include the following attachments, in addition to any requirements developed by the office pursuant to paragraph (b) of this subsection:

   a. A copy of the ordinance adopted by the city or county establishing the development area; and

   b. A copy of the local participation agreement.

2. The office shall review the application to determine if the applicant has met all of the statutory and regulatory requirements for participation by the Commonwealth and shall notify the applicant in writing of its determination. This review shall be preliminary in nature and shall not constitute approval of the request. All applications for participation by the Commonwealth shall be approved by the commission.

3. a. Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to Section 16 of this Act, along with any supporting materials, shall be referred by the office to the commission for consideration.

   i. Applicants meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to Section 17 of this Act shall be required to submit a report prepared by an independent consultant or financial adviser as described in subsection (6) of this section for the application to be complete. The office shall notify such applicants of the report requirements and shall provide information regarding the contents and requirements for the report at the same time it notifies the applicant of the results of its preliminary review.

   ii. Upon receipt and review of the report, the office shall refer the application and supporting information to the commission for consideration.

(b) Additional standards and requirements for the application process shall be established by the office through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(3) The commission may request any materials and make any inquiries concerning an application that the commission deems necessary.

(4) Upon review of an application and other information available, the commission may pledge all or a portion of the real property ad valorem tax incremental revenue of the Commonwealth or state tax revenues attributable to the footprint of the project, as limited by Section 16 or 17 of this Act, whichever is applicable.

(a) If incremental revenues are pledged from less than one hundred percent (100%) of the footprint of the project, a description of the included portion of the development area shall be provided.

(b) State tax revenues from the development area that have not been pledged to projects within the development area may be used to support other economic development programs or tourism projects approved under KRS 139.536 and 148.851 to 148.860, provided that state tax revenues shall not be pledged more than once during the existence of the development area. Thus, state tax revenues pledged to support increment bonds issued for the development area, or a project in the development area shall not be pledged to support any other development area, project, program, development, or undertaking during the life of the development area. If less than one hundred percent (100%) of incremental revenues are pledged pursuant to the provisions of Sections 1 to 20 of this Act, the remaining incremental revenues shall not be used to support other economic development programs or tourism projects approved under KRS 139.536 and 148.851 to 148.860.

(5) The pledge of incremental real property ad valorem tax revenues or state tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, as the case may be, in accordance with Section 18 of this Act.

(6) (a) The commission shall engage the services of a qualified independent outside consultant or financial adviser to analyze the data related to the project and the development area and prepare the report required by subsection (2) of this section. The report shall include the following:

1. The estimated approved project costs for the project;

2. The feasibility of the project, taking into account the scope and location of the project;

3. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be generated by the project over the period, which may be up to twenty (20) years or thirty (30) years, as applicable, from the activation date;

4. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be displaced within the Commonwealth, for the purpose of quantifying economic activity which is being shifted over the same period as that set forth in subparagraph 3. of this paragraph. The projections for displaced activity shall include economic activity that is lost to the Commonwealth as a result of the project, as well as economic activity that is diverted to the project that formerly took place at existing establishments within the Commonwealth prior to the commencement date of the project;

5. The estimated incremental revenues the project and the development area are expected to generate over

the period, equal to the estimated amount set forth in subparagraph 3. of this paragraph minus the amount set forth in subparagraph 4. of this paragraph;

6. In the process of estimating the revenues and impacts prescribed in subparagraphs 3., 4., and 5. of this paragraph, the independent outside consultant shall not consider any of the following:

a. Revenues or economic impacts associated with any projects within the development area where the new project will be located; and

b. Revenues or economic impacts associated with economic development projects and approved Kentucky Tourism Development Act projects under KRS Chapter 148;

7. The relationship of the estimated incremental revenues to the financing needs, including any increment bonds, of the project; and

8. A determination that the project will not occur if not for the designation of the development area, the granting of incremental revenues by the taxing district or districts, other than the Commonwealth, and the granting of the state tax incremental revenues.

(b) 1. The independent consultant or financial advisor shall consult with the Office of State Budget Director, and the Finance and Administration Cabinet in the development of the report.

2. The Office of State Budget Director and the Finance and Administration Cabinet, in collaboration with the independent consultant or financial advisor, shall agree on a methodology to be used and assumptions to be made by the independent consultant or financial consultant in preparing its report.

3. On the basis of the independent consultant's report and the other materials provided, prior to any approval of a project by the commission, the Office of State Budget Director and the Finance and Administration Cabinet shall certify to the commission whether there is a projected net positive economic impact to the Commonwealth and the expected amount of state tax incremental revenues from the project.

4. The city, county, or agency making the application shall pay all costs associated with the independent consultant's or financial advisor's report.

SECTION 16. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Participation Program for Real Property Ad Valorem Tax Revenues is hereby established.

(2) A project shall meet all of the following criteria to be considered for state participation under this program:

(a) The project shall represent new economic activity in the Commonwealth;

(b) The project shall result in a minimum capital investment of twenty-five million dollars ($25,000,000); and

(c) Not more than twenty percent (20%) of the approved project costs or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.

(3) The commission shall review the application and supporting information as provided in Section 15 of this Act.

(4) The commission may pledge up to one hundred percent (100%) of the Commonwealth's real property ad valorem tax incremental revenue from the footprint of a project, provided that the maximum amount of incremental revenues that may be pledged during the term of the state participation agreement for a project shall not exceed fifty percent (50%) of approved project costs.

(5) As part of the approval process, the commission shall determine the following:

(a) The footprint of the project;

(b) The maximum amount of approved project costs;

(c) That the local revenues pledged to support the project are of a sufficient amount to warrant participation of the Commonwealth in the project;

(d) The termination date of the state participation agreement, not to exceed twenty (20) years from the activation date; and

(e) Any adjustments to be made to old revenues in determining incremental revenues during each year of the term of the project grant agreement.

(6) The pledge of incremental real property ad valorem tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, in accordance with Section 18 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Participation Program for State Tax Revenues is hereby established.

(2) A project shall meet all of the following criteria to be considered for state participation under this program:

(a) The project shall represent new economic activity in the Commonwealth;

(b) The project shall result in a minimum capital investment of:

1. Fifty million dollars ($50,000,000) if state tax revenues will be pledged for a period of up to twenty (20) years; or

2. Two hundred fifty million dollars ($250,000,000) if state tax revenues will be pledged for a period of up to thirty (30) years;

(c) The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 15 of this Act; and

(d) Not more than twenty percent (20%) of the approved project costs or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.

(3) The commission shall review the application, the certification required by Section 15 of this Act, and supporting information as provided in Section 15 of this Act.

(4) The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed fifty percent (50%) of approved project costs.

(5) As part of the approval process, the commission shall determine the following:

(a) The footprint of the project;

(b) The maximum amount of approved project costs;

(c) That the local revenues pledged to support the project are of a sufficient amount to warrant participation of the Commonwealth in the project;

(d) The termination date of the project grant agreement; and

(e) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement.

(6) The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 18 of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The terms and conditions of the project grant agreement shall be negotiated between the commission and the agency. The project agreement shall include but not be limited to the following provisions:

(a) Identification of the parties to the project grant agreement and the duties and responsibilities of each party to the project grant agreement;

(b) The specific identification of the state tax revenues, by type of tax, to be released or pledged by the Commonwealth for the project;

(c) The anticipated benefit to be received by the Commonwealth, including:

1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the project grant agreement; and

2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;

(d) A detailed description of each project that is the subject of the project grant agreement, including an estimate of the costs of construction or acquisition and development;

(e) Identification of the project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;

(f) The percentage of approved project costs that may be recovered;

(g) The minimum capital investment required;

(h) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the project grant agreement of any incremental revenues if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

(i) The termination date;

(j) A requirement that the agency, city, or county annually certify to the office the use of incremental revenues for the payment of approved project costs within the development area;

(k) A requirement that the agency shall utilize the portion of incremental revenues pledged pursuant to a project grant contract that exceeds, in a given year, the amounts needed to:

1. Pay the current debt charges; and

2. Maintain a fully funded reserve;

to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues;

(l) A requirement that the agency, city, or county make periodic accountings to the office;

(m) A requirement that the office monitor and verify approved project costs and minimum capital investment; and

(n) Any other provisions not inconsistent with Sections 1 to 20 of this Act deemed necessary or appropriate by the parties to the project grant agreement.

(2) Any pledge of incremental revenues in a project grant agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute or ordinance regarding the application or use of incremental revenues. An ordinance in conflict with a project grant agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

(3) Any project grant agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the project grant agreement.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Prior to any incremental revenues being released by the Commonwealth for any project, the office shall certify that the minimum capital investment has been made as required by the project grant agreement.

(2) The office shall monitor all project grant agreements and shall verify for each project expenditures identified as approved project costs on a periodic basis.

(3) The office shall track the amount of incremental revenues released to each agency under each project grant agreement.

(4) The office shall prepare a quarterly report for the commission updating the status of each project subject to a project grant agreement, including expenditures qualifying as approved project costs to date and incremental revenues from the Commonwealth released to date.

SECTION 20. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any agency that enters into a local participation agreement, local development area agreement, or project grant agreement for the release of incremental revenues during the period of a local participation agreement, local development area agreement, or project grant agreement shall, after each calendar year, in which a local participation agreement, local development area agreement, or project grant agreement is in effect, notify each taxing district obligated under the local participation agreement or local development area agreement and the Commonwealth, if applicable, that incremental revenues are due and, in consultation with each taxing district, and the Commonwealth, if applicable, the agency shall determine the amount of incremental revenues due from each taxing district or the Commonwealth, if applicable.

(b) The agency shall present to the office the total increment due from the Commonwealth and the office shall certify the amount.

(2) Upon notice from the agency, each taxing district obligated under a local participation agreement or local development area agreement shall release to the agency the incremental revenues due under the local participation agreement or local development area agreement. The agency shall certify to the office on a calendar year basis the amount of incremental revenues collected.

(3) Upon certification of the total incremental revenues due from the Commonwealth by the office, the Department of Revenue shall transfer the incremental revenues to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the incremental revenues. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the office shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the project grant agreement. Upon notification, the Finance and Administration Cabinet shall release to the agency the Commonwealth's portion of the total incremental revenues due under the project grant agreement.

(4) The Department of Revenue or agency shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the taxing district's or Commonwealth's increment for that period.

SECTION 21. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO READ AS FOLLOWS:

Effective on the effective date of this Act, the provisions of KRS 65.490 to 65.499 shall apply only to development areas which:

(1) Were established by a county containing a city of the first class or a city of the first class prior to the effective date of this Act; and

(2) (a) Are subject to the provisions of a grant contract, Interlocal Cooperation Agreement or Master Agreement executed prior to the effective date of this Act; or

(b) Include a project meeting the following requirements, if a grant agreement is executed on or before December 31, 2007:

1. Includes at least two hundred million dollars ($200,000,000) of private capital invested as debt or equity as part of the project's construction financing; and

2. Includes the development of public infrastructure, which shall include but not be limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, flood walls, flood gates, promenades, and parks; and

3. Includes tourism and cultural attractions, such as a park or a public museum; and

4. Is located in the area of the consolidated local government or city of the first class that comprises a Downtown Management District established pursuant to KRS 91.750 to 91.762.

SECTION 22. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

Effective on the effective date of this Act, the provisions of KRS 65.680 to 65.699 shall apply only to development areas which are:

(1) Established under KRS 65.686 by a city or county prior to the effective date of this Act; and

(2) Subject to the provisions of a grant contract executed prior to the effective date of this Act.

Section 23. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 92.305 and 91.285, unless the context otherwise requires:

(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or

(c) Has been tax delinquent for a period of at least three (3) years*; or*

(d) Is located within a development area established under Sections 5, 6, and 7 of this Act.

(2) For purposes of local taxation in cities of any class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of any class, county containing a city of the first class, or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city, county containing a city of the first class, or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

Section 24. KRS 131.020 is amended to read as follows:

(1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:

(a) *Office of the Commissioner of the Department of Revenue, which shall include but not be limited to the Division of Tax Increment Financing, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall analyze and assist in implementing proposed state tax increment financing projects, including working with other government agencies to gather and evaluate the necessary tax related data for these proposed projects. The division shall work with the project agency in administering the grant contract and shall serve as the record keeping unit for all state tax increment financing projects;*

(b) Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;

(c)[~~(b)~~]Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:

1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;

2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and

3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;

(d)[~~(c)~~]Office of the Taxpayer Ombudsman. The Office of the Taxpayer Ombudsman shall be headed by an executive director, functioning as the taxpayer ombudsman as established by KRS 131.051(1) and 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071;

(e)[~~(d)~~]Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering personal property taxes, and collecting delinquent taxes. The Office of Property Valuation shall consist of the Divisions of:

1. Local Valuation, which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;

2. State Valuation, which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and

3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);

(f)[~~(e)~~] Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Sales and Use Tax, which shall administer the sales and use tax; and

2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

(g)[~~(f)~~] Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and

2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and

(h)[~~(g)~~] Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

(2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.

(4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

(5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

The Committee Substitute to **HB 549** is as follows:

HB 549, AN ACT relating to tax increment financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that the establishment of development areas, local development areas, and projects which result in increased property values, increased employment opportunities, and increased economic activity in communities within the Commonwealth serves a public purpose.

(2) The General Assembly further finds and declares that the authority prescribed in Sections 1 to 22 of this Act, and the purposes to be accomplished thereunder, are proper.

(3) A city or county creating or expanding a development area or local development area, shall, to the greatest extent it determines to be reasonably feasible in carrying out the provisions of Sections 1 to 22 of this Act, afford maximum opportunity for the rehabilitation, development, renovation, or improvement of a development area or local development area by private enterprise.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The purposes of Sections 1 to 22 of this Act are as follows:

(1) Section 4 of this Act provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and devote local resources to support the development of projects in those local development areas. Local development areas established under Section 4 of this Act and projects within local development areas shall not be eligible for participation by the Commonwealth.

(2) Sections 5, 6, and 7 of this Act provide a framework for cities and counties to establish development areas within their jurisdictional boundaries, and to devote local resources to providing redevelopment assistance and supporting projects in those development areas. Projects within development areas established pursuant to Sections 5, 6, and 7 of this Act shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Sections 1 to 22 of this Act; and

(3) Sections 16, 17, 18, 19, 20 and 21 of this Act establish the requirements that must be met by a project within a development area for the project to receive participation from the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 22 of this Act:

(1) "Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The Commonwealth or governing body may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date, the agency that is a party to the project grant agreement shall notify the office. The agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area;

(2) "Agency" means:

(a) An urban renewal and community development agency established under KRS Chapter 99;

(b) A development authority established under KRS Chapter 99;

(c) A nonprofit corporation;

(d) A housing authority established under KRS Chapter 80;

(e) An air board established under KRS 183.132 to 183.160;

(f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;

(g) A riverport authority established under KRS 65.510 to 65.650; or

(h) A designated department, division, or office of a city or county;

(3) "Approved project costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;

(b) The cost of acquiring land or rights in land and any cost incident thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of a project which is not paid by the contractor or contractors or otherwise provided;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;

(e) All costs that are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of a project; and

(f) All other costs of a nature comparable to those described in this subsection;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5) "City" means any city, consolidated local government, or urban-county government;

(6) "Commencement date" means:

(a) The date on which a local development area agreement is executed; or

(b) The date on which a local participation agreement is executed; or

(c) The date on which a project grant agreement is executed;

(7) "Commission" means the State Tax Increment Financing Commission established by Section 15 of this Act;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;

(10) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;

(11) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(12) "Development area" means an area established under Sections 5, 6, and 7 of this Act;

(13) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 26, 28, 34, or 48 of KRS Chapter 154;

(14) "Establishment date" means the date on which a development area or a local development area is created. If the development area, development area plan, or local development area is modified or amended subsequent to the original establishment date, the modifications or amendments shall not extend the existence of the development area or local development area beyond what would be permitted under Sections 1 to 22 of this Act from the original establishment date;

(15) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual approved project costs are incurred;

(16) "Governing body" means the body possessing legislative authority in a city or county;

(17) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects, or grant or loan programs as described in paragraph (c) of subsection (32) of this section, in a development area or a local development area;

(18) "Incremental revenues" means:

(a) The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, a project within a development area, or a local development area; or

(b) The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint of a project within a development area;

(19) "Issuer" means a city, county, or agency issuing increment bonds;

(20) "Local development area" means a development area established under Section 4 of this Act;

(21) "Local development area agreement" means an agreement entered into under Section 4 of this Act;

(22) "Local participation agreement" means the agreement entered into under Section 12 of this Act;

(23) "Local tax revenues" means:

(a) Revenues derived by a city or county from one (1) or more of the following sources:

1. Real property ad valorem taxes; and

2. Occupational taxes, excluding occupational taxes that have already been pledged to support an economic development project within the development area; and

(b) Revenues derived by any other taxing district from real property ad valorem taxes;

(24) "Low-income household" means a household in which gross income is no more than two hundred percent (200%) of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2);

(25) "New revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area or a local development area in any calendar year beginning with the year in which the activation date occurred; or

(b) The amount of state tax revenues received by the Commonwealth with respect to the footprint of a project in any calendar year beginning with the year in which the activation date occurred;

(26) "Office" means the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue, established by Section 26 of this Act;

(27) "Old revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area or a local development area during the last calendar year prior to the commencement date; or

(b) 1. The amount of state tax revenues received by the Commonwealth from the footprint of a project during the last calendar year prior to the commencement date. If the office determines that the amount of state tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the office may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of state tax revenues. The amount determined by the office shall be specified in the project grant agreement. If state tax revenues were derived from the project prior to the commencement date, old revenues shall increase each calendar year by:

a. The percentage increase, if any, of the CPI or a comparable index; or

b. An alternative percentage increase that is determined to be appropriate by the office.

The method for increasing old revenues shall be set forth in the project grant agreement;

2. If state revenues were derived from the footprint of the project prior to the commencement date, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.

(28) "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or

(c) Increment bonds for the payment, or redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(29) "Planning unit" means a planning commission established pursuant to KRS Chapter 100;

(30) "Project" means any property, asset, or improvement located in a development area or a local development area and certified by the governing body as:

(a) Being for a public purpose; and

(b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and

(c) Contributing to economic development or tourism; and

(d) Meeting the additional requirements established by Section 17, 18 or 19 of this Act if incremental revenues from the Commonwealth are to be included;

(31) "Project grant agreement" means an agreement entered into under Section 20 of this Act;

(32) "Redevelopment assistance," as utilized within a development area, includes the following:

(a) Technical assistance programs to provide information and guidance to existing, new, and potential businesses and residences;

(b) Programs to market and promote the development area and attract new businesses and residents;

(c) Grant and loan programs to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;

(d) Programs to obtain a reduced interest rate, down payment, or other improved terms for loans made by private, for-profit, or nonprofit lenders to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;

(e) Local capital improvements, including but not limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, and public buildings and facilities;

(f) Improved or increased provision of public services, including but not limited to police or security patrols, solid waste management, and street cleaning;

(g) Provision of technical, financial, or other assistance in connection with:

1. Applications to the Environmental and Public Protection Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.01-450; or

2. Site remediation by means of the Voluntary Environmental Remediation Program to remove environmental contamination in the development area, or lots or parcels within it, pursuant to KRS 224.01-510 to 224.01-532; and

(h) Direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:

1. Assembly and replatting of lots or parcels;

2. Rehabilitation of existing structures and improvements;

3. Demolition of structures and improvements and construction of new structures and improvements;

4. Programs of temporary or permanent relocation assistance for businesses and residents;

5. The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and

6. The acquisition and construction of projects;

(33) "Service payment agreement" means an agreement between a city, county, or issuer of increment bonds or other obligations and any person, whereby the person agrees to guarantee the receipt of incremental revenues, or the payment of debt charges, or any portion thereof, on increment bonds or other obligations issued by the city, county, or issuer;

(34) "Special fund" means a special fund created under Section 11 of this Act in which all incremental revenues shall be deposited;

(35) "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);

(36) "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:

(a) State real property ad valorem taxes;

(b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;

(c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;

(d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and

(e) Sales taxes levied under KRS 139.200, excluding sales already pledged for:

1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and

2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;

(37) "Taxing district" means any city, county, or special taxing district other than school districts and fire districts; and

(38) "Termination date" means:

(a) For a development area, a date established by the ordinance creating the development area that is no more than twenty (20) years from the establishment date, provided that if a project grant agreement for a project within a development area or a local participation agreement relating to the development area has a termination date that is later than the termination date established in the ordinance, the termination date for the development area shall be extended to the termination date of the project grant agreement, or local participation agreement. However, the termination date for the development area shall in no event be more than forty (40) years from the establishment date;

(b) For a local development area, a date established by the ordinance creating the local development area that is no more than twenty (20) years from the establishment date, provided that if a local development area agreement relating to the local development area has a termination date that is later than the termination date established in the ordinance, the termination date for the local development area shall be extended to the termination date of the local development area agreement;

(c) For a local participation agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local participation agreement shall in no event be more than forty (40)

years from the establishment date of the development area to which the local participation agreement relates;

(d) For a local development area agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local development area agreement shall in no event be more than forty (40) years from the establishment date of the local development area to which the development area agreement relates;

(e) For a project grant agreement satisfying the requirements of Section 17 of this Act, subsection (2)(b)1. of Section 18 of this Act or Section 19 of this Act; a date established by the project grant agreement that is no more than twenty (20) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates; and

(f) For a project grant agreement satisfying the requirements of subsection (2)(b)2. of Section 18 of this Act, a date established by the project grant agreement that is no more than thirty (30) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city or county may establish a local development area pursuant to this section, subject to the following conditions:

(a) A local development area shall be a previously undeveloped tract of land;

(b) No more than one thousand (1,000) acres shall be approved for a local development area in any twelve (12) month period in any county;

(c) The establishment or expansion of the local development area shall not cause the assessed value of taxable real property within all local development areas and development areas of the city or county establishing the local development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction; and

(d) Unless the ordinance establishing a local development area requires an earlier termination date, a local development area shall cease to exist on the termination date.

(2) A city or county shall take the following steps to establish or modify a local development area:

(a) The city or county shall hold a public hearing to solicit input from the public regarding the local development area. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed local development area. The notice shall include a summary of the projects proposed for the local development area;

(b) After the public hearing, the city or county shall adopt an ordinance which shall include the following provisions:

1. A description of the boundaries of the local development area;

2. The establishment date and the termination date;

3. A name for the local development area for identification purposes;

4. Approval of any agreements relating to the local development area;

5. A provision establishing a special fund for the local development area or any project within the local development area;

6. A requirement that any entity other than the governing body that receives financial assistance under the local development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;

7. A provision for periodic analysis and review by the governing body of the development activity in the local development area;

8. Designation of the agency or agencies responsible for oversight, administration, and implementation of the local development ordinance; and

9. Any other provisions, findings, limitations, rules, or procedures regarding the proposed local development area or a project within the local development area and its establishment or maintenance deemed necessary by the city or county; and

(c) If incremental revenues or other resources are to be pledged from taxing districts other than the city or county establishing the local development area, a local development area agreement shall be executed in accordance with the provisions of subsection (4) of this section.

(3) Funding for projects in a local development area shall be provided in accordance with Section 9 of this Act.

(4) A local development area agreement shall be executed among the agencies and taxing districts involved in administering, providing financing, or pledging incremental revenues within the local development area. The local development area agreement shall be adopted by a city or county by ordinance and by any other taxing authority or

agency by resolution, and shall include but not be limited to the following provisions:

(a) Identification of the parties to the local development area agreement and the duties and responsibilities of each entity under the agreement;

(b) Specific identification of the tax increments released or pledged by type of tax by each taxing district;

(c) The anticipated benefit to be received by each taxing district for the release or pledge, including:

1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local development area agreement; and

2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;

(d) A detailed description of the local development area;

(e) A description of each proposed project, including an estimate of the costs of construction, acquisition, and development;

(f) A requirement that pledged incremental revenues will be deposited in a special fund pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;

(g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local development area agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

(h) The commencement date, activation date, and termination date; and

(i) Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the agreement.

(5) Any pledge of incremental revenues in a local development area agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local area development agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. No ordinance in conflict with a local area development agreement shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or county may establish a development area pursuant to Sections 5, 6, and 7 of this Act to encourage reinvestment in and development and reuse of areas of the city or county under the following conditions:

(1) The area shall be contiguous and shall be no more than three (3) square miles;

(2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction;

(3) The governing body of the city or county shall determine that the area has two (2) or more of the following conditions:

(a) Substantial loss of residential, commercial, or industrial activity or use;

(b) Forty percent (40%) or more of the households are low-income households;

(c) More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;

(d) Substantial abandonment of residential, commercial, or industrial structures;

(e) Substantial presence of environmentally contaminated land;

(f) Inadequate public improvements or substantial deterioration in public improvements or such as streets, street lighting, curbs, gutters, sidewalks, parks, and recreational facilities; or

(g) Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the area's present condition and use.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city or county seeking to establish a development area shall adopt a development plan. The development plan may be developed by a city, a county, or a city and county jointly, or may be proposed by an agency or by a private entity. The plan shall include the following:

(a) Assurances that the proposed development area meets the requirements of subsections (1) and (2) of Section 5 of this Act, and identification of the conditions in the proposed development area that meet the criteria set forth in subsection (3) of Section 5 of this Act;

(b) A detailed description of the existing uses and conditions of real property in the development area;

(c) A map showing the boundaries of the proposed development area;

(d) A map showing proposed improvements and uses therein, including the identification of any proposed projects, along with a narrative description of the proposed improvements, projects, and uses within the development area;

(e) A description of the redevelopment assistance proposed to be employed in the development area, including the manner and location of such assistance;

(f) A detailed financial plan containing projections of the cost of the proposed redevelopment assistance to be provided, proposed projects to be funded, proposed sources of funding for these costs, projected incremental revenues, and the projected time frame during which financial obligations will be incurred;

(g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance anticipated to be required to implement the development plan; and

(h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.

(2) Prior to adoption of a development plan, the city or county shall hold a public hearing to solicit input from the public regarding the plan. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed development area. The notice shall include a summary of the redevelopment assistance proposed to be employed, identification of projects proposed for the development area, and a statement that a copy of the development plan is available for inspection at the business office of the city or county.

(3) Prior to publication of a hearing notice pursuant to subsection (2) of this section, a copy of the development plan shall be filed with the city clerk of each city having jurisdiction within the proposed development area, and with the county fiscal court.

(4) A city or county having jurisdiction within the proposed development area not initially participating in a proposed development plan shall have the opportunity to determine whether it will participate in the plan. The city or county shall determine and notify the entity proposing the development plan in writing within thirty (30) days after the public hearing whether it will participate in the plan.

(5) At the end of the time period established in subsection (4) of this section, the city or county may adopt an ordinance establishing a development area in accordance with Section 7 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) An ordinance establishing a development area shall include the following provisions:

(a) A description of the boundaries of the development area;

(b) The establishment date;

(c) The termination date, including a provision that allows the termination date to be extended as provided in subsection (38) of Section 3 of this Act;

(d) A name for the development area for identification purposes;

(e) A finding that the conditions in the development area meet the criteria described in Section 5 of this Act;

(f) A finding supporting the need to employ redevelopment assistance in the development area;

(g) A provision adopting the development plan required by subsection (1) of Section 6 of this Act;

(h) Approval of any agreements relating to the development area, including any participation agreements;

(i) A provision establishing a special fund for the development area or any project within the development area;

(j) A requirement that any entity other than the governing body that receives financial assistance under the development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;

(k) A provision for periodic analysis and review by the governing body of the development activity in the development area, a review of the progress in meeting the stated goals of the development area, and a requirement that the review and analysis be forwarded to the office if the development activity includes projects subject to a project grant agreement;

(l) Designation of the agency or agencies responsible for oversight, administration, and implementation of the development ordinance; and

(m) Any other provisions, findings, limitations, rules, or procedures regarding the proposed development area or a project within the development area and its establishment or maintenance deemed necessary by the city or county.

(2) An ordinance establishing a development area may designate an existing agency to oversee and administer implementation of a development area ordinance or a portion thereof.

(3) Unless the ordinance establishing a development area requires an earlier date, a development area shall cease to exist on the termination date.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any amendment, change, or revision to a development plan adopted as part of a development area established pursuant to Sections 5, 6, and 7 of this Act, including the addition of a project, use of new or different redevelopment assistance within the development area, or amendment of the development area boundaries shall be made as follows, provided that any amendment adopted shall not extend the existence of development area beyond the termination date:

(1) An amendment to the development plan shall be adopted by the city or county. The proposed development plan amendment shall include the following:

(a) Identification of the development area to which the amendment applies;

(b) A copy of the development plan as revised by the amendment;

(c) A narrative description of the proposed changes to the original development area plan and how those changes will impact the original development plan;

(d) If the amendment changes the boundaries, or in any way amends maps filed with the original development plan, a revised map identifying the new boundaries, improvements, or projects proposed in the amendment;

(e) A description of the redevelopment assistance proposed to be employed, including the manner and location of such assistance relating to the proposed amendment;

(f) A financial plan relating to the proposed amendment, including the proposed cost of providing any redevelopment assistance and proposed projects to be funded, the sources of funding to meet those costs, projected incremental revenues, and the projected time period during which financial obligations will be incurred;

(g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance required to implement the proposed amendment; and

(h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.

(2) Prior to the adoption of an amendment to a development plan, the city or county shall comply with the hearing and notice provisions set forth in subsections (2) and (3) of Section 6 of this Act. The notice provided in relation to an amendment to the development plan shall include a summary of how the amendment changes the development plan and shall identify new redevelopment assistance and projects proposed by the amendment.

(3) The city or county shall adopt any amendment to the development plan and any amendment to the development area by ordinance. The ordinance shall include the following provisions:

(a) A provision adopting the amendment to the development plan required by subsection (1) of this section;

(b) Approval of any participation agreements or other agreements relating to the amendment;

(c) The identification of any new or different state or local tax revenues pledged by any taxing district or the Commonwealth to support the provision of redevelopment assistance or projects identified in the amendment;

(d) A finding that the amendment does not increase the aggregate value of taxable real property included in all the community redevelopment areas and the local community development areas within the jurisdiction of the city or county to more than twenty percent (20%) of the total value of taxable real property within its jurisdiction; and

(e) Any other provisions, findings, limitations, rules, or procedures regarding the amendment deemed necessary by the city or county.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) To provide funding for redevelopment assistance or projects in a development area or a projects in a local development area:

(a) Any taxing authority may, in addition to any other pledge permitted by law to secure its obligations, pledge up to one hundred percent (100%) of the incremental local tax revenues generated in the development area or local development area from a project within the development area or local development area for up to twenty (20) years from the activation date;

(b) The amount of incremental revenues shall be determined for each type of tax separately; and

(c) Local tax revenues from a development area that have not been pledged to support redevelopment assistance or projects within the development area, or from a local development area that have not been pledged to support projects within the local development area, may be used to support other economic development programs, provided that local tax revenues shall not be pledged more than once. Thus, local tax revenues pledged to support increment bonds issued for the development area or local development area shall not also be pledged to support a specific project within the development area or local development area, and those revenues shall not

be pledged to support any other program, development, or undertaking.

(2) Any city may pledge revenues collected under a special assessment imposed under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

(3) Any county may levy a special assessment under the terms and conditions established for cities under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

(4) Any pledge of incremental revenues or other revenues related to a development area by a taxing authority shall be accomplished through the execution of a local participation agreement in accordance with Section 12 of this Act.

(5) Any pledge of incremental revenues or other revenues related to a local development area by a taxing authority shall be accomplished through the execution of a local development area agreement in accordance with Section 4 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city, county, or agency with bonding authority may issue increment bonds and may pledge incremental revenues to the payment of the increment bonds.

(1) Increment bonds shall be issued, administered, and regulated only by ordinance adopted by the governing body which shall:

- *(a) Declare the necessity of the incremental bond issue;*
- *(b) State the principal amount or maximum principal amount of the increment bonds to be issued;*
- *(c) State the purpose of the increment bond issue;*
- *(d) State or provide for the date of, and the dates and amounts or maximum amount of, maturities or principal payments on the increment bonds;*
- *(e) State any provisions for a special fund, mandatory sinking fund, mandatory sinking fund redemption, or for redemption prior to maturity;*
- *(f) Provide for the rate or rates of interest, or maximum rate or rates of interest, or the method for establishing the rate or rates of interest to be paid on the increment bonds;*
- *(g) State any provision for a designated officer of the issuer to determine any of the specific terms required to be stated or provided for in this paragraph, subject to any limitations stated in the proceedings;*
- *(h) If the increment bonds are payable solely from incremental revenues, include a determination that the incremental revenues are adequate to make the debt payments so long as the increment bonds are outstanding; and*
- *(i) Include any other provisions deemed appropriate by the governing body.*

(2) Increment bonds issued pursuant to this section shall not mature on a date beyond the termination date of the development area or local development area.

(3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this section shall mature as determined by the governing body consistent with the termination date.

(4) The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds insofar as they do not conflict with the provisions of Sections 1 to 20 of this Act. If they do conflict, the provisions of Sections 1 to 20 of this Act shall apply.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

During any time when incremental revenues have been pledged pursuant to a local participation agreement, local development area agreement, or grant project agreement, or that increment bonds are outstanding, the city, county, or issuer, as the case may be, shall maintain a special fund, which shall be pledged for the retirement of increment bonds, if such bonds are outstanding, and the payment of project costs in a development area or local development area, or providing redevelopment assistance in a development area.

(1) Officials charged with collecting revenues for any taxing district that has pledged incremental revenues under a local participation agreement or a local development area agreement shall, for each year a local participation agreement or local development area agreement is in effect or any increment bonds are outstanding with respect to a development area or local development area, submit those incremental revenues for deposit in the special fund. The amount of incremental revenues shall be determined under Section 22 of this Act.

(2) Funds deposited in a special fund shall be disbursed at the times and in the amounts required to pay the costs of any debt charges on incremental bonds, approved project costs, and, in a development area, redevelopment assistance. However, there shall be no disbursements for other redevelopment assistance in a development area, or approved project costs in a development area or local development area, if the funds are required to pay debt charges on increment bonds.

(3) Amounts in a special fund which exceed the amount required to pay debt charges and, in a development area, costs of redevelopment assistance in any fiscal year shall be used to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues. Amounts beyond this may be used to pay the costs of additional projects or, in a development area, redevelopment assistance.

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A local participation agreement shall be executed among the agencies and taxing districts involved in administering or providing financing or pledging incremental revenues to support the implementation of a development plan in a development area. The local participation agreement shall be adopted by a city or county by ordinance and by any other taxing authority or agency by resolution, and shall include but not be limited to the following provisions:

(a) Identification of the parties to the local participation agreement and the duties and responsibilities of each entity under the agreement;

(b) Specific identification of the incremental revenues released or pledged by type of tax by each taxing district;

(c) The anticipated benefit to be received by each taxing district for the release or pledge, including:

1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local participation agreement; and

2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;

(d) A detailed description of the development area;

(e) A description of each proposed project that is the subject of a local participation agreement, including an estimate of the costs of construction, acquisition, and development;

(f) A requirement that pledged incremental revenues will be deposited in a special fund established pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;

(g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local participation agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

(h) The commencement date, activation date, and termination date; and

(i) Any other provisions not inconsistent with Sections 1 to 20 of this Act deemed necessary or appropriate by the parties to the agreement.

(2) Any pledge of incremental revenues in a local participation agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local participation agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. An ordinance in conflict with a local participation agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A city, county, or issuer may enter into a service payment agreement.

(2) The service payment agreement may provide that the city, county, or issuer shall have a lien on property described in the service payment agreement equal to the amount of periodic payments due under the service payment agreement. The service payment agreement may further provide that any lien created pursuant to this section shall be governed by the provisions set forth in KRS 91A.280, provided that a lien created pursuant to this section shall not have the priority established in KRS 91A.280 in relation to an existing lien on the property covered by the agreement unless, prior to recording the service payment agreement, the lien holder under the service payment agreement provides notice of the lien created by the service payment agreement to the holder of the existing lien, and the holder of the existing lien consents to the priority in writing. If written consent is not obtained, the priority of the lien created under this subsection in relation to the prior lien shall be determined in the same manner as a mortgage lien under KRS 382.280.

(3) A lien authorized by this section shall not be valid and enforceable until evidence of the lien has been recorded in the office of the county clerk. The lien shall commence upon the issuance of increment bonds or other obligations and shall continue until other funding sources pledged to and derived from the project that is the subject of the service payment agreement are sufficient to make, when due, all payments on the increment bonds or other obligations identified in the service payment agreement. Upon termination of a lien authorized by this section, a release shall be filed by the city, county, or issuer with the county clerk.

SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Real property located within a development area shall not be eligible for participation in a program granting property assessment or reassessment moratoriums pursuant to KRS 99.600.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The State Tax Increment Financing Commission is hereby created as an independent agency of the state within the meaning of KRS Chapter 12. The commission shall be composed of the following members, or their designees as authorized in subsection (4) of this section:

- *(a) The secretary of the Finance and Administration Cabinet, who shall be the chairman thereof;*
- *(b) The state budget director, who shall be the vice chairman thereof;*
- *(c) The secretary of the Cabinet for Economic Development;*
- *(d) The secretary of the Commerce Cabinet;*
- *(e) The commissioner of the Department for Local Development, who shall be the secretary thereof;*
- *(f) The president of the Kentucky League of Cities; and*
- *(g) The chairman of the board of directors for the Kentucky Chamber of Commerce.*

(2) The commission shall review all applications for state participation in tax increment financing projects and shall approve those proposals it determines meet the requirements established by Sections 16, 17, 18, 19, 20 and 21 of this Act.

(3) Members of the commission shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.

(4) (a) Each member of the commission may designate, by an instrument in writing over his or her signature and filed with the secretary as a public record of the commission, a designee with full authority to attend in the absence of the appointing member, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission.

- *(b) Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis, but in no case for a period of more than four (4) years, whenever the appointing member is unable to attend.*
- *(c) Any designation shall be subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission.*
- *(d) Any party transacting business with the commission or materially affected thereby shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, time of designation, scope thereof, and, if of a continuing nature, whether the same has been revoked and when. The joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefore with acceptable identification of the business or transaction referred, and of the requesting party's interest therein.*
- *(e) Each alternate shall be a person on the staff of the appointing member or in the employ of his or her agency or department of the government of the Commonwealth.*

(5) Any four (4) members of the commission or their designees shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(6) The commission shall meet at least two (2) times each year, but may meet more frequently upon the call of the chairman or a request made by any four (4) members of the commission.

(7) The commission shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the commission with necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

(8) The commission shall prepare bylaws and shall establish procedures applicable to the operations of the commission.

(9) On or before February 15, 2008, and each year thereafter, the commission shall provide the Governor and the Legislative Research Commission with an annual report, which shall include, but shall not be limited to the following for the prior calendar year:

- *(a) A list of applications considered by the commission during the prior calendar year, including the name of the applicant, a description of the project, the local tax revenues or other revenues pledged, the level of participation requested from the Commonwealth, and whether the application was approved; and*
- *(b) For each approved application, the report shall include:*
  - *1. The total commitment made by the Commonwealth, detailed by type of tax and estimated incremental revenues pledged for each tax;*
  - *2. The length of the commitment; and*
  - *3. The portion of the development area included in the project.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth shall offer three (3) tax increment financing participation programs. The first program, the criteria and details of which are set forth in Section 17 of this Act, relates to a pledge of state real property ad valorem

taxes only. The second program, the criteria and details of which are set forth in Section 18 of this Act, relates to a pledge of state tax revenues. The third program, the criteria and details of which are set forth in Section 19 of this Act, relates to the pledge of state tax revenues to support mixed use development in blighted urban areas.

(2) (a) A city or county that has established a development area pursuant to Sections 5, 6, and 7 of this Act, or an agency designated as the entity managing a development area established pursuant to Sections 5, 6, and 7 of this Act, may submit an application to the office requesting that the Commonwealth participate in a project.

1. The application shall identify the specific program under which state participation is being requested and shall include the following attachments, in addition to any requirements developed by the office pursuant to paragraph (b) of this subsection:

a. A copy of the ordinance adopted by the city or county establishing the development area; and

b. A copy of the local participation agreement.

2. The office shall review the application to determine if the applicant has met all of the statutory and regulatory requirements for participation by the Commonwealth and shall notify the applicant in writing of its determination. This review shall be preliminary in nature and shall not constitute approval of the request. All applications for participation by the Commonwealth shall be approved by the commission.

3. a. Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to Section 17 of this Act, along with any supporting materials, shall be referred by the office to the commission for consideration.

i. Applicants meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to Section 18 or 19 of this Act shall be required to submit a report prepared by an independent consultant or financial adviser as described in subsection (6) of this section for the application to be complete. The office shall notify such applicants of the report requirements and shall provide information regarding the contents and requirements for the report at the same time it notifies the applicant of the results of its preliminary review.

ii. Upon receipt and review of the report, the office shall refer the application and supporting information to the commission for consideration.

(b) Additional standards and requirements for the application process shall be established by the office through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(3) The commission may request any materials and make any inquiries concerning an application that the commission deems necessary.

(4) Upon review of an application and other information available, the commission may pledge all or a portion of the state real property ad valorem tax incremental revenue of the Commonwealth or state tax revenues attributable to the footprint of the project, as limited by Section 17, 18 or 19 of this Act, whichever is applicable.

(a) If incremental revenues are pledged from less than one hundred percent (100%) of the footprint of the project, a description of the included portion of the development area shall be provided.

(b) State tax revenues from the development area that have not been pledged to projects within the development area may be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860, provided that state tax revenues shall not be pledged more than once during the existence of the development area. Thus, state tax revenues pledged to support increment bonds issued for the development area, or a project in the development area shall not be pledged to support any other development area, project, program, development, or undertaking during the life of the development area. If less than one hundred percent (100%) of incremental revenues are pledged pursuant to the provisions of Sections 1 to 22 of this Act, the remaining incremental revenues shall not be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860.

(5) The pledge of incremental state real property ad valorem tax revenues or state tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, as the case may be, in accordance with Section 20 of this Act.

(6) (a) The commission shall engage the services of a qualified independent outside consultant or financial adviser to analyze the data related to the project and the development area and prepare the report required by subsection (2) of this section. The report shall include the following:

1. The estimated approved project costs for the project;

2. The feasibility of the project, taking into account the scope and location of the project;

3. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be generated by the project over the period, which may be up to twenty (20) years or thirty (30) years, as applicable, from the activation date;

4. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be displaced within the Commonwealth, for the purpose of quantifying economic activity which is being *shifted over the same period as that set forth in subparagraph 3. of this paragraph. The projections for displaced activity shall include economic activity that is lost to the Commonwealth as a result of the project, as well as economic activity that is diverted to the project that formerly took place at existing establishments within the Commonwealth prior to the commencement date of the project;*

5. The estimated amount of local and state old revenues that would have been generated in the footprint of the project in the absence of the project, computed over the same time period as set forth in subparagraph 3. of this paragraph;

6. In the process of estimating the revenues and impacts prescribed in subparagraphs 3. and 4. of this paragraph, the independent outside consultant shall not consider any of the following:

a. Revenues or economic impacts associated with any projects within the development area where the new project will be located; and

b. Revenues or economic impacts associated with economic development projects and approved Kentucky Tourism Development Act projects under KRS Chapter 148;

7. The relationship of the estimated incremental revenues to the financing needs, including any increment bonds, of the project;

8. When estimating the fiscal impact of the project, the consultant shall evaluate the amount of revenue estimated in subparagraph 3. of this paragraph and shall deduct the amounts estimated in subparagraphs 4. and 5. of this paragraph. The resulting difference shall be compared to the estimated incremental revenues to determine the presence or absence of a positive fiscal impact; and

9. A determination that the project will not occur if not for the designation of the development area, the granting of incremental revenues by the taxing district or districts, other than the Commonwealth, and the granting of the state tax incremental revenues.

(b) 1. The independent consultant or financial advisor shall consult with the Office of State Budget Director, and the Finance and Administration Cabinet in the development of the report.

2. The Office of State Budget Director and the office, in collaboration with the independent consultant or financial advisor, shall agree on a methodology to be used and assumptions to be made by the independent consultant or financial consultant in preparing its report.

3. On the basis of the independent consultant's report and the other materials provided, prior to any approval of a project by the commission, the Office of State Budget Director and the Finance and Administration Cabinet shall certify to the commission whether there is a projected net positive economic impact to the Commonwealth and the expected amount of state tax incremental revenues from the project.

4. The city, county, or agency making the application shall pay all costs associated with the independent consultant's or financial advisor's report.

SECTION 17. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Participation Program for State Real Property Ad Valorem Tax Revenues is hereby established.

(2) A project shall meet all of the following criteria to be considered for state participation under this program:

(a) The project shall represent new economic activity in the Commonwealth;

(b) The project shall result in a minimum capital investment of twenty-five million dollars ($25,000,000); and

(c) Not more than twenty percent (20%) of the approved project costs or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.

(3) The commission shall review the application and supporting information as provided in Section 16 of this Act.

(4) The commission may pledge up to one hundred percent (100%) of the Commonwealth's state real property ad valorem tax incremental revenue from the footprint of a project, provided that the maximum amount of incremental revenues that may be pledged during the term of the state participation agreement for a project shall not exceed fifty percent (50%) of approved project costs.

(5) As part of the approval process, the commission shall determine the following:

(a) The footprint of the project;

(b) The maximum amount of approved project costs;

(c) That the local revenues pledged to support the project are of a sufficient amount to warrant participation of the Commonwealth in the project;

(d) The termination date of the state participation agreement, not to exceed twenty (20) years from the activation date; and

(e) Any adjustments to be made to old revenues in determining incremental revenues during each year of the term of the project grant agreement.

(6) The pledge of incremental state real property ad valorem tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, in accordance with Section 20 of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Participation Program for State Tax Revenues is hereby established.

(2) A project shall meet all of the following criteria to be considered for state participation under this program:

(a) The project shall represent new economic activity in the Commonwealth;

(b) The project shall result in a minimum capital investment of:

1. Fifty million dollars ($50,000,000) if state tax revenues will be pledged for a period of up to twenty (20) years; or

2. Two hundred fifty million dollars ($250,000,000) if state tax revenues will be pledged for a period of up to thirty (30) years;

(c) The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of this Act; and

(d) Not more than twenty percent (20%) of the approved project costs or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.

(3) The commission shall review the application, the certification required by Section 16 of this Act, and supporting information as provided in Section 16 of this Act.

(4) The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed fifty percent (50%) of approved project costs.

(5) As part of the approval process, the commission shall determine the following:

(a) The footprint of the project;

(b) The maximum amount of approved project costs;

(c) That the local revenues pledged to support the project are of a sufficient amount to warrant participation of the Commonwealth in the project;

(d) The termination date of the project grant agreement; and

(e) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement.

(6) The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 18 of this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Participation Program for Mixed Use Redevelopment in Blighted Urban Areas is hereby established.

(2) As used in this section:

(a) "Mixed-use" means a project that includes at least two qualified uses;

(b) "Public infrastructure" means streets, lighting, pedestrian amenities, public utilities, public parking, parks, public buildings and other similar amenities that benefit the public at large;

(c) "Qualified use" means:

1. Retail;

2. Residential;

3. Office;

4. Restaurant; or

5. Hospitality.

To be a qualified use, the use must comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent twenty percent (20%) of the total capital investment; and

(d) "Retail" means an establishment predominantly engaged in the sale of tangible personal property subject to the tax imposed by KRS Chapter 139, but shall not include restaurants.

(3) To be considered for state participation under this program, a project shall:

(a) Be located in an area that has three (3) or more of the conditions listed in subsection (3) of Section 5 of this Act;

(b) Be a mixed use project;

(c) Represent new economic activity in the Commonwealth;

(d) Result in a minimum capital investment of thirty five million dollars ($35,000,000);

(e) Not include any retail establishment that exceeds twenty thousand (20,000) square feet of finished square footage;

(f) Include pedestrian amenities and public space; and

(g) Result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of this Act.

(4) The percentages of allowable costs that may be recovered pursuant to this section are as follows:

(a) If at least twenty-five percent (25%) of the approved project costs are directly attributable to public infrastructure improvements, the maximum recovery shall be:

1. Fifty percent (50%) of approved project costs if less than fifty percent (50%) of approved project costs or fifty percent (50%) of the finished square footage are devoted to the support or development of assets that will be utilized for retail; or

2. Forty percent (40%) of approved project costs if fifty percent (50%) or more of approved project costs or fifty percent (50%) or more of the finished square footage are devoted to the support or development of assets that will be utilized for retail.

(b) If less than twenty-five percent (25%) of the approved project costs are directly attributable to public infrastructure improvements, the maximum recovery shall be:

1. Forty percent (40%) of approved project costs if:

a. Less than fifty percent (50%) of approved project costs or fifty percent (50%) of the finished square footage are devoted to the support or development of assets that will be utilized for retail; and

b. At least forty percent (40%) of approved project costs or forty percent (40%) of the finished square footage are devoted to the rehabilitation or new construction of residential or office space or hospitality; or

2. Thirty percent (30%) of approved project costs if fifty percent (50%) or more of approved project costs or fifty percent (50%) or more of the finished square footage are devoted to the support or development of assets that will be utilized for retail.

(5) The commission shall review the application, the certification required by Section 16 of this Act, and supporting information as provided in Section 16 of this Act.

(6) The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed the relevant percentage of approved project costs as determined under subsection (4) of this Section.

(7) As part of the approval process, the commission shall determine the following:

(a) The footprint of the project;

(b) That the proposed project meets the requirements established by subsection (3) of this section;

(c) The maximum amount of approved project costs;

(d) That the local revenues pledged to support the project are of a sufficient amount to warrant participation of the Commonwealth in the project;

(e) The termination date of the project grant agreement; and

(f) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement.

(8) The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 20 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The terms and conditions of the project grant agreement shall be negotiated between the commission and the agency. The project agreement shall include but not be limited to the following provisions:

(a) Identification of the parties to the project grant agreement and the duties and responsibilities of each party to

the project grant agreement;

(b) The specific identification of the state tax revenues, by type of tax, to be released or pledged by the Commonwealth for the project;

(c) The anticipated benefit to be received by the Commonwealth, including:

1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the project grant agreement; and

2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;

(d) A detailed description of each project that is the subject of the project grant agreement, including an estimate of the costs of construction or acquisition and development;

(e) Identification of the project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;

(f) The percentage of approved project costs that may be recovered;

(g) The minimum capital investment required;

(h) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the project grant agreement of any incremental revenues if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

(i) The termination date;

(j) A requirement that the agency, city, or county annually certify to the office the use of incremental revenues for the payment of approved project costs within the development area;

(k) A requirement that the agency shall utilize the portion of incremental revenues pledged pursuant to a project grant contract that exceeds, in a given year, the amounts needed to:

1. Pay the current debt charges; and

2. Maintain a fully funded reserve;

to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues;

(l) A requirement that the agency, city, or county make periodic accountings to the office;

(m) A requirement that the office monitor and verify approved project costs and minimum capital investment; and

(n) Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the project grant agreement.

(2) Any pledge of incremental revenues in a project grant agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute or ordinance regarding the application or use of incremental revenues. An ordinance in conflict with a project grant agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

(3) Any project grant agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the project grant agreement.

SECTION 21. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Prior to any incremental revenues being released by the Commonwealth for any project, the office shall certify that the minimum capital investment has been made as required by the project grant agreement.

(2) The office shall monitor all project grant agreements and shall verify for each project expenditures identified as approved project costs on a periodic basis.

(3) The office shall track the amount of incremental revenues released to each agency under each project grant agreement.

(4) The office shall prepare a quarterly report for the commission updating the status of each project subject to a project grant agreement, including expenditures qualifying as approved project costs to date and incremental revenues from the Commonwealth released to date.

SECTION 22. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any agency that enters into a local participation agreement, local development area agreement, or project grant agreement for the release of incremental revenues during the period of a local participation agreement, local development area agreement, or project grant agreement shall, after each calendar year, in which a local participation agreement, local development area agreement, or project grant agreement is in effect, notify each taxing district obligated under the local participation agreement or local development area agreement and the Commonwealth, if applicable, that incremental revenues are due and, in consultation with each taxing district, and the Commonwealth, if applicable, the agency shall determine the amount of incremental revenues due

from each taxing district or the Commonwealth, if applicable.

(b) The agency shall present to the office the total increment due from the Commonwealth. The office shall review and verify the information submitted and shall certify the verified amount.

(2) Upon notice from the agency, each taxing district obligated under a local participation agreement or local development area agreement shall release to the agency the incremental revenues due under the local participation agreement or local development area agreement. The agency shall certify to the office on a calendar year basis the amount of incremental revenues collected.

(3) Upon certification of the total incremental revenues due from the Commonwealth by the office, the Department of Revenue shall transfer the incremental revenues to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the incremental revenues. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the office shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the project grant agreement. Upon notification, the Finance and Administration Cabinet shall release to the agency the Commonwealth's portion of the total incremental revenues due under the project grant agreement.

(4) The Department of Revenue or local taxing district shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the taxing district's or Commonwealth's increment for that period.

SECTION 23. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO READ AS FOLLOWS:

(1) Effective on the effective date of this Act, the provisions of KRS 65.490 to 65.499 shall apply only to development areas which:

(a) Were established by a county containing a city of the first class or a city of the first class prior to the effective date of this Act; and

(b) 1. Are subject to the provisions of a grant contract, Interlocal Cooperation Agreement or Master Agreement executed prior to the effective date of this Act; or

2. Include a project meeting the requirements established by Section 27 of this Act, if a grant agreement is executed on or before December 31, 2007.

(2) The provisions of Sections 27 and 28 of this Act shall continue to apply to projects that meet the requirements of Section 27 of this Act and paragraph (b)2. of subsection (1) of this section after the effective date of this Act.

SECTION 24. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

Effective on the effective date of this Act, the provisions of KRS 65.680 to 65.699 shall apply only to development areas which are:

(1) Established under KRS 65.686 by a city or county prior to the effective date of this Act; and

(2) Subject to the provisions of a grant contract executed prior to the effective date of this Act.

Section 25. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 92.305 and 91.285, unless the context otherwise requires:

(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or

(c) Has been tax delinquent for a period of at least three (3) years***; or***

(d) Is located within a development area established under Sections 5, 6, and 7 of this Act.

(2) For purposes of local taxation in cities of any class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of any class, county containing a city of the first class, or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city, county containing a city of the first class, or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

Section 26. KRS 131.020 is amended to read as follows:

(1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:

(a) ***Office of the Commissioner of the Department of Revenue, which shall include but not be limited to the***

Division of Tax Increment Financing, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall analyze and assist in implementing proposed state tax increment financing projects, including working with other government agencies to gather and evaluate the necessary tax related data for these proposed projects. The division shall work with the project agency in administering the grant contract and shall serve as the record keeping unit for all state tax increment financing projects;

(b) Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;

(c)[~~(b)~~]Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:

1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;

(d)[~~(c)~~]Office of the Taxpayer Ombudsman. The Office of the Taxpayer Ombudsman shall be headed by an executive director, functioning as the taxpayer ombudsman as established by KRS 131.051(1) and 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071;

(e)[~~(d)~~]Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering personal property taxes, and collecting delinquent taxes. The Office of Property Valuation shall consist of the Divisions of:

1. Local Valuation, which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;
2. State Valuation, which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and
3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);

(f)[~~(e)~~] Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

(g)[~~(f)~~] Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and

(h)[~~(g)~~] Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

(2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.

(4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

(5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

SECTION 27. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of KRS 65.490 to 65.499 to the contrary, the provisions of Section 28 of this Act shall apply to a proposed project that meets the following criteria:

(1) Includes at least two hundred million dollars ($200,000,000) of private capital invested as debt or equity as part of the project's construction financing; and

(2) Includes the development of public infrastructure, which shall include but not be limited to the installation, construction or reconstruction of streets, lighting, pedestrian amenities, public utilities, flood walls, flood gates, promenades, and parks; and

(3) Includes tourism and cultural attractions, such as a park or a public museum; and

(4) Is located in the area of the consolidated local government or city of the first class that comprises a Downtown Management District established pursuant to KRS 91.750 to 91.762; and

(5) Is not the subject of a contract under the provisions of KRS 65.495 in effect on or before the effective date of this Act. Any amendments made to a contract that was in existence on or before the effective date of this Act shall not constitute a new contract for the purpose of determining eligibility for any of the provisions of Section 27, 28, or 30 of this Act.

SECTION 28. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of KRS 65.490 to 65.499 to the contrary, the following provisions shall apply to a proposed project that meets the requirements established in Section 27 of this Act:

(1) The tax increment financing program or grant program may exist for a period of up to thirty (30) years, and may continue thereafter only if reauthorized by the General Assembly; and

(2) A contract entered into pursuant to subsection (1) of KRS 65.495 between the agency and a governing body imposing the transient room tax permitted by Section 29 of this Act may provide for the release of up to eighty percent (80%) of the increment from the tax levied by Section 29 of this Act derived by the governing body within the development area. The amount released shall not exceed a base amount of four hundred thousand dollars ($400,000) in the first year of the grant agreement, which base amount shall be increased in each subsequent year of the grant agreement by four percent (4%).

Section 29. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.

(2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.

(3) A portion of the money collected from the imposition of this tax, as determined by the[,] tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business***, including projects described in Section 27 of this Act***. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant***, except as provided in Section 28 of this Act***. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(4) A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the room rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the regular tax and shall be used for the purpose of funding additional promotion of tourist and convention business.

(5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

(6) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.

(7) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

(8) The fiscal court or legislative body of a consolidated local government or city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county, consolidated local government, or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(9) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

SECTION 30. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Agency" has the same meaning as in KRS 65.490;

(b) "Economic development project" means a project that:

1. Meets the requirements established by Section 27 of this Act and KRS 65.493; and

2. Has been approved for state participation through the execution of a grant contract after the effective date of this Act pursuant to the provisions of KRS 65.490 to 65.499; and

(c) "Tangible personal property used in the construction of an economic development project" means tangible personal property that:

1. Consists of:

a. Permanently incorporated building materials and fixtures that are an improvement to real property on the economic development project;

b. Building materials temporarily incorporated into the economic development project for infrastructure support during construction; or

c. Temporarily incorporated specialized forms for concrete that are for exclusive use on the qualifying economic development project; and

2. Is not machinery or equipment.

(2) (a) Notwithstanding any other provision of KRS Chapter 139 and KRS 134.580, the sales or use tax paid on the purchase of tangible personal property used in the construction of an economic development project shall be refunded to the agency under the conditions established by subsection (3) of this section.

(b) The Finance and Administration Cabinet, acting on behalf of the Governor, shall notify the department upon the approval of an economic development project. The notification shall include the name of the economic development project, the name of the agency, the name of the project developer, and the effective date of the contract.

(3) To qualify for the refund established by subsection (2) of this section, the agency shall collect from the purchasers of tangible personal property used in the construction of the economic development project all documentation relating to the payment of sales or use tax, and shall file an application for refund of the sales or use tax paid by the purchasers as reflected in the documentation collected. Requests for refund shall be filed annually during the first five (5) years the agreement is in effect, and shall cover purchases made during the prior year. Claims for refund shall be filed in the manner directed by the cabinet.

(4) The agency shall file the first year refund request within sixty (60) days following the end of the fiscal year in which the grant contract is executed. The agency shall file the final refund request within sixty (60) days following the end of the fourth fiscal year following the fiscal year in which the grant contract was executed, or within sixty (60) days after construction is complete, whichever date is earlier. All other annual refund request shall be filed within sixty (60) days after the completion of each fiscal year.

(5) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(6) The agency shall execute information sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify construction material costs.

The Committee Amendment No. 1 Title to **HB 549** is as follows:

HB 549, Amend the title to read as follows: "AN ACT relating to tax increment financing and urban redevelopment."

Calendar

HB 383, HJR 137, and **HJR 144** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stein moved the adoption of the following **HR 173**:

HR 173, A RESOLUTION adjourning the House of Representatives in honor of Lawrence T. Smith.

WHEREAS, Lawrence T. "Larry" Smith became involved as a diabetes volunteer when his daughter, Lisa, was diagnosed with diabetes, and was the first Kentuckian to chair the board of directors of the American Diabetes Association, serving in that capacity from 2005 to 2006 and serving on the board of directors for six years; and

WHEREAS, Larry Smith is president of Smith Marketing Research, a marketing research and consulting firm; is past president of the Lexington Forum and a Trustee of the Lexington Public Library Foundation; and was a charter class member of Leadership Kentucky and served as the first president of the Leadership Kentucky Alumni Association; and

WHEREAS, Larry Smith and his wife, Christine, are the proud parents of two beautiful daughters, Lisa and Jennifer;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives joins with the many diabetes advocates in attendance today on Diabetes Awareness Day to honor Lawrence T. Smith for his exemplary volunteer leadership.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Lawrence T. Smith.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Lady from Fayette 75 for presentation to Mr. Smith on behalf of the members.

There being no objection, **HR 173** was adopted.

Representative Marzian moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 175, by Representative Marzian: A RESOLUTION honoring the Kentucky Psychological Association.

Representative Marzian moved the adoption of the following **HR 175**:

HR 175, A RESOLUTION honoring the Kentucky Psychological Association.

WHEREAS, the Kentucky Psychological Association has a record of 75 years of service and excellence in the Commonwealth; and

WHEREAS, the members of the Kentucky Psychological Association have promoted the psychological well-being of our citizens through direct service, scientific research, public education, and pro bono services; and

WHEREAS, psychologists provide needed services to the most vulnerable of Kentucky's citizens; and

WHEREAS, psychologists promote both mental and physical health through research, intervention, and direct care that address the connection between the body and the mind; and

WHEREAS, the Kentucky Psychologists Association works to improve professional education in psychology and provides support for students through alliances with Kentucky universities and colleges;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby conveys its respect and appreciation for the work of psychologists and their professional association, the Kentucky Psychological Association.

Section 2. The Clerk of the House of Representatives is directed to send a copy of this Resolution to Nancy Gordon Moore, Ph.D., Executive Director, Kentucky Psychological Association, 120 Sears Avenue, Suite 214, Louisville, Kentucky 40207.

There being no objection, **HR 175** was adopted.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 116, 122, 131, 208, 229, 235, 284, 297, 329, 355, 380, 381, 405, HCR 122, HB 65, 191, 465, 431, 437, 439, 490,** and **383** have been posted for passage in the Regular Orders of the Day for February 28, 2007.

The Committee on Rules reported that the following Bills have been recommitted:

Judiciary: **HB 350**

Appropriations and Revenue: **HB 314**

Orders of the Day

HB 280, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 280**, be passed.

Representative Moore moved the adoption of Floor Amendment No. 1 to **HB 280**.

Representative Damron inquired whether Floor Amendment No. 1 to **HB 280** is germane.

The Speaker ruled that Floor Amendment No. 1 to HB 280 is not germane and also contains the substantial text of the language of another bill introduced this session.

On the roll call for the passage of **HB 280** the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 280** - Appendix.)

HB 280 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 280** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 316 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 316** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 316** - Appendix.)

HB 316 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 316** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 509 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 509** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 509** - Appendix.)

HB 509 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 509** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 239 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HB 239** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 239** - Appendix.)

HB 239 was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 239** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 126 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved that **HCR 126** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 27, 2007, roll call on **HCR 126** - Appendix.)

HCR 126 was adopted.

Representative Hoffman moved that the vote by which **HCR 126** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 357 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 357** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 27, 2007, roll call on **HB 357** - Appendix.)

HB 357 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 357** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 367, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 367**. Agreed.

Representative Jenkins moved that **HB 367**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 81, Nays 18**. (See February 27, 2007, roll call on **HB 367** - Appendix.)

HB 367, by way of Committee Substitute, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 367**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 378 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **HB 378** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 27, 2007, roll call on **HB 378** - Appendix.)

HB 378 was passed and the title agreed to.

Representative DeWeese moved that the vote by which **HB 378** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 440, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved the adoption of the Committee Substitute to **HB 440**. Agreed.

Representative L. Belcher moved that **HB 440**, by way of Committee Substitute, be passed.

Representative Rasche moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 440**. Agreed.

Representative L. Belcher moved that **HB 440**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 440** - Appendix.)

HB 440, by way of Committee Substitute, as amended, was passed.

Representative L. Belcher moved the adoption of Floor Amendment No. 2 Title to **HB 440**. Agreed.

Representative L. Belcher moved that the vote by which **HB 440**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 399, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of Floor Amendment No. 1 to **HB 399**. Agreed.

Representative McKee moved that **HB 399**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 1.** (See February 27, 2007, roll call on **HB 399** - Appendix.)

HB 399, as amended, was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 399**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 230 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adams moved that **HB 230** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 27, 2007, roll call on **HB 230** - Appendix.)

HB 230 was passed and the title agreed to.

Representative Adams moved that the vote by which **HB 230** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 228 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 228** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 27, 2007, roll call on **HB 228** - Appendix.)

HB 228 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 228** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 167, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of the Committee Substitute to **HB 167**. Agreed.

Representative Siler moved that **HB 167**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 27, 2007, roll call on **HB 167** - Appendix.)

HB 167, by way of Committee Substitute, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 167**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 83, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of Floor Amendment No. 2 to **HB 83**. Agreed.

Representative Denham moved that **HB 83**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 27, 2007, roll call on **HB 83** - Appendix.)

HB 83, as amended, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 83**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 360, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 360**. Agreed.

Representative Moberly moved that **HB 360**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 360** - Appendix.)

HB 360, by way of Committee Substitute, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 360**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 514 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 514** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 27, 2007, roll call on **HB 514** - Appendix.)

HB 514 was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 514** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 253 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 253** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 253** - Appendix.)

HB 253 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 253** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HR 61** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 27, 2007, roll call on **HR 61** - Appendix.)

HR 61 was adopted.

Representative Ballard moved that the vote by which **HR 61** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 295 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 295** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 295** - Appendix.)

HB 295 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 295** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 325 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 325** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 27, 2007, roll call on **HB 325** - Appendix.)

HB 325 was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 325** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 84 with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Henderson moved that **HJR 84** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0.** (See February 27, 2007, roll call on **HJR 84** - Appendix.)

HJR 84 was adopted.

Representative Henderson moved the adoption of Committee Amendment No. 1 Title to **HJR 84**. Agreed.

Representative Henderson moved that the vote by which **HJR 84** was adopted, as amended, be reconsidered and said motion be placed on the table. Agreed.

HB 245, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved the adoption of Floor Amendment No. 1 to **HB 245**. Agreed.

Representative Thompson moved that **HB 245**, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 27, 2007, roll call on **HB 245** - Appendix.)

HB 245, as amended, was passed and the title agreed to.

Representative Thompson moved that the vote by which **HB 245**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 386 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HB 386** be passed.

On the roll call the vote was: **Yeas 95, Nays 1.** (See February 27, 2007, roll call on **HB 386** - Appendix.)

HB 386 was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 386** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 259, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved the adoption of the Committee Substitute to **HB 259**. Agreed.

Representative C. Belcher moved that **HB 259**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 27, 2007, roll call on **HB 259** - Appendix.)

HB 259, by way of Committee Substitute, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 259**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 402 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Firkins moved that **HB 402** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 27, 2007, roll call on **HB 402** - Appendix.)

HB 402 was passed and the title agreed to.

Representative Firkins moved that the vote by which **HB 402** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 500 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Combs moved that **HB 500** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 27, 2007, roll call on **HB 500** - Appendix.)

HB 500 was passed and the title agreed to.

Representative Combs moved that the vote by which **HB 500** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 461, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 461.** Agreed.

Representative Rasche moved that **HB 461,** by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 27, 2007, roll call on **HB 461** - Appendix.)

HB 461, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 461,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 278, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 278.** Agreed.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 278.** Agreed.

Representative Jenkins moved that **HB 278,** by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 1.** (See February 27, 2007, roll call on **HB 278** - Appendix.)

HB 278, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 278,** by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 145 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved that **HB 145** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 27, 2007, roll call on **HB 145** - Appendix.)

HB 145 was passed and the title agreed to.

Representative Pasley moved that the vote by which **HB 145** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 459, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the Committee Substitute to **HB 459**. Agreed.

Representative Collins moved that **HB 459**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 27, 2007, roll call on **HB 459** - Appendix.)

HB 459, by way of Committee Substitute, was passed.

Representative Collins moved the adoption of Committee Amendment No. 1 Title to **HB 459**. Agreed.

Representative Collins moved that the vote by which **HB 459**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 196, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of Floor Amendment No. 1 to **HB 196**. Agreed.

Representative Marzian moved that **HB 196**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 27, 2007, roll call on **HB 196** - Appendix.)

HB 196, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 196**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and the posting requirement be waived on **HB 318** and **SB 69**. Agreed.

Representative Adkins moved that the rules be suspended and the posting requirement be waived retroactively on **HJR 72**. Agreed.

Representative Adkins moved that **SB 74** be reassigned to the Committee on Tourism Development and Energy. Agreed.

Representative Adkins moved that **SB 138** be reassigned to the Committee on Licensing and Occupations. Agreed.

Representative Adkins moved that the posting requirement be waived on the following: **SB 74** and **138**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 176, by Representatives Hall, Combs, and Collins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kentucky state Trooper Jonathan K. Leonard, who perished in the line of duty in service to his Commonwealth.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Licensing and Occupations: **HB 567, SB 29, 134**

Health and Welfare: **SB 69**

State Government: **SB 56, 58, 59, 76, 79, 85, 144**

Natural Resources and Environment: **SB 47, HCR 131**

Floor Amendments

Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 362**, by Representative J. Lee:

HB 362, On page 3, line 18, delete "***quarterly***" and insert "***monthly***";

On page 7, delete lines 10 through 27 and on page 8, delete lines 1 through 5, and insert the following in lieu thereof:

"Section 6. There is hereby appropriated to the Cabinet for Health and Family Services, Department for Community Based Services, Division of Service Regions, $1,656,600 in General Fund moneys and $623,500 in Federal Funds in fiscal year 2007-2008 which shall be used to fill an additional 76 Social Services Worker positions, 27 Social Services Aide positions, and 5 Clerical Support staff positions above the personnel cap funded by the 2006 General Assembly. Moneys appropriated pursuant to this section shall be placed in a trust and agency account to be used for the purposes set forth in this section.

There is further appropriated to the Cabinet for Health and Family Services, Department for Community Based Services, Division of Service Regions, $843,400 in General Fund moneys and $131,600 in Federal Funds in fiscal year 2007-2008 for supervised visitation centers. Moneys appropriated pursuant to this section shall be placed in a trust and agency account to be used for the purposes set forth in this section. Any task force established to study social worker issues shall include a recommendation on the amount and type of technology and equipment needed to ensure maximum safety for social workers and associated staff.

To adequately fund Permanency and Protection staff improvements set out in the preceding two paragraphs, any amount of expenditures over $2,500,000 in General Fund moneys, not to exceed $2,338,600, shall be deemed a necessary governmental expense and transferred from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). There funds shall be transferred only upon certification of need by the Secretary of the Cabinet for Health and Family Services to the Secretary of the Finance and Administration Cabinet.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 159**, by Representative Fischer:

SB 159, On page 13, line 21, after "***when***" by deleting "***:***";

On page 13, line 22, by deleting "***1.***";

On page 13, line 23, by deleting the second "***or***";

On page 12, by deleting lines 24 and 25 in their entirety;

On page 35, line 26, by inserting after "***days***" the following "***, not including weekends or holidays,***"; and,

On page 62, line 5, by deleting "***but shall***" and inserting in lieu thereof "***and shall not be required to***".

Floor Amendment No. 6 to the Committee Substitute to **HB 1**, by Representative Moberly:

HB 1, On page 26, delete lines 8-15.

Floor Amendment No. 1 to the Committee Substitute to **HB 465**, by Representative Couch:

HB 465, On page 4, line 24, delete "***July 1, 2012***", and insert in lieu thereof "***December 31, 2012***".

Floor Amendment No. 1 to **HB 359**, by Representative Ford:

HB 359, On page 1, line 22, delete the entire line and replace it with "***but excluding the taxpayer's name and excluding any information***".

Floor Amendment No. 1 to **HB 118**, by Representative Meeks:

HB 118, On page 12, between lines 14 and 15, insert "*(a) Any tract of land of less than fifty (50) contiguous acres in area;*"; and

On page 12, at the beginning of line 15, delete "*(a)*", and insert in lieu thereof "*(b)*"; and

On page 12, at the beginning of line 18, delete "*(b)*", and insert in lieu thereof "*(c)*"; and

On page 12, at the beginning of line 22, delete "*(c)*", and insert in lieu thereof "*(d)*".

Floor Amendment No. 1 to **HB 468**, by Representative Bell:

HB 468, On page 2, line 18, after "*System,*", insert "*or operated and occupied under the combined efforts of the Kentucky Community and Technical College System and a public four (4) year regional university,*".

Floor Amendment No. 1 to **HB 299**, by Representative Wuchner:

HB 299, On page 1, after the enacting clause, by deleting lines 1 through 17 and inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Department of Education shall promulgate an administrative regulation in accordance with KRS Chapter 13A to implement at least thirty (30) minutes of structured moderate-to-vigorous physical activity each day, one hundred fifty (150) minutes per week, or the equivalent minutes per month as required under subsection (11) of Section 2 of this Act. The physical activity, if segmented, shall be at least ten (10) minutes in duration, be incorporated into the existing school day, and may be considered part of the instructional day. The physical activity may include any combination of classroom-based physical activity, structured recess, or other structured physical activity. The administrative regulation shall identify model programming, alternative plans, and optional activities for integration of physical activity during the school day. The department shall make available a list of accessible resources to carry out the provisions of subsection (11) of Section 2 of this Act and encourage schools to utilize and consult with certified physical education teachers in the development of their physical activity plans.

(2) The department shall develop a reporting mechanism for schools that provides an easy method of reporting data on physical activity and wellness programs to the department. The reporting shall include but not be limited to:

(a) The time spent by students participating in structured physical activities before, during, and after school;

(b) The type or name of each physical activity program used by each school;

(c) The proportion of all students participating in each type of structured physical activity before, during, and after school;

(d) Data gathered from the school assessment program, if available, including the number and proportion of students who are at risk of being overweight, overweight, and obese; and

(e) If available, the number students completing the President's Fitness Challenge.

(3) The Department of Education shall report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare no later than November 1 of each year. The report shall include data at least on each of the items reported by schools under subsection (2) of this section, by school district.

Section 2. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all

members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

(10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.

(11) Each school council of a school containing ***preschool through eighth*** grades ~~[K-5]~~or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. ***No later than the 2008-2009 school year, all schools containing preschool through sixth grades shall implement, and all schools containing seventh and eighth grades shall be encouraged to implement, at least thirty (30) minutes of structured moderate-to-vigorous physical***

activity each day, one hundred fifty (150) minutes per week, or the equivalent minutes per month. No later than the 2009-2010 school year, all schools containing seventh and eighth grades shall implement at least thirty (30) minutes of structured moderate-to-vigorous physical activity each day, one hundred fifty (150) minutes per week, or the equivalent minutes per month. The required physical activity, if segmented, shall be at least ten (10) minutes in duration, be incorporated into the existing school day, and may be considered part of the instructional day. The physical activity may include any combination of classroom-based physical activity, structured recess, or other structured physical activity.~~[The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week.]~~ Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. ~~[The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided.]~~The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.".

Floor Amendment No. 4 to **HB 398**, by Representative Keene:

HB 398, On page 1, line 20, by bracketing and striking through the words "proximately caused primarily", and by inserting before the bracketed text "*caused, in part,*"; and

On page 1, line 21, after "501.010," by bracketing and striking through "or"; and

On page 1, line 22, after "another" by inserting "*, or by the voluntary intoxication of prescribed pharmaceuticals, including those that carry a warning of potential drowsiness*".

Floor Amendment No. 2 to **HB 359**, by Representative Floyd:

HB 359, On page 2, line 5, delete "*the staff*" and insert in its place "*any employee*", and

On page 2, line 24, delete all text after the "*.*", and

On page 2, line 25 through page 3, line 2, delete all text.

Floor Amendment No. 1 to **HB 70**, by Representative Wuchner:

HB 70, On page 1, line 13, after the word "*sentence*" by inserting "*,and receipt of a certificate of completion of a civics review course as determined by general law*".

Floor Amendment No. 1 to **HB 106**, by Representative Comer:

HB 106, On page 1, line 19, insert "*or*" after the ";"; and

On page 1, line 19, bracket and strike through "and"; and

On page 1, between lines 19 and 20, insert the following: "*3. Had a child or dependent that graduated from a Kentucky high school; and*"; and

On page 1, line 20, before "3." insert "*4.*" and bracket and strike through "3."; and

On page 3, lines 15 and 16, bracket and strike through "He must be a resident, or if deceased, have been a resident of the Commonwealth of Kentucky."

Floor Amendment No. 3 to the Committee Substitute to **HB 214**, by Representative Riggs:

HB 214, On page 1, line 11, following "15.410 to 15.510" to insert "*and 15.520*"; and

On page 3, lines 21 to 23, to delete the same; and

On page 3, line 24, to delete "*4.*" and to insert in lieu thereof "*3.*"; and

On page 3, line 26, after "*15.404*" to delete "*.*" and insert in lieu thereof "*;*"; and

On page 3, line 27, to delete the same; and

On page 4, lines 1 to 2, to delete the same; and

On page 4, line 3, to delete "*5.*" and to insert in lieu thereof "*4.*"; and

On page 4. line 10, to delete "*6.*" and to insert in lieu thereof "*5.*"; and

On page 4, line 13, after "*b.*" to delete "*Kentucky Vehicle Enforcement officers*" and insert in lieu thereof "*Mounted*

patrol officers employed by the Kentucky Horse Park"; and

On page 5, line 23, after "***officers;***" to delete "***and***"; and

On page 5, line 24, after "***officers;***" to insert "***and***"; and

On page 5, between lines 24 and 25, to insert the following:

"***g. Mounted patrol officers employed by the Kentucky Horse Park;***"; and

On page 16, below line 15, to insert the following:

"Section 15. KRS 15.520 is amended to read as follows:

(1) In order to establish a minimum system of professional conduct of the police officers of ~~[local]~~ units of government of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the ~~[local]~~ unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:

1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;

2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;

3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;

4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension;

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;

(e) Any charge involving violation of any ~~[local]~~ unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the ~~[local]~~ unit of government or the police officer so charged, until final disposition of the charges;

(g) No police officer as a condition of continued employment by the ~~[local]~~ unit of government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and

(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;

2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than seventy-two (72) hours prior to the time of any hearing;

3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the

time and place of the hearing by certified mail, return receipt requested;

4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;
5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;
6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;
7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;
8. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and
9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.

(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the ~~[local]~~ unit of government may be located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.

(3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance, or working agreement.

(4) The provisions of this section shall apply only to police officers of ~~[local]~~ units of government who receive funds pursuant to KRS 15.410 through 15.992.

Section 16. Officers identified in subsection (1)(c)5.a. to f. of Section 4 of this Act and their employing units of government shall not become eligible to receive Law Enforcement Foundation Program funds until July 1, 2008.".

Floor Amendment No. 3 Title to **HB 313**, by Representative Webb:

HB 313, Amend the title to read as follows:

"AN ACT relating to health facilities.".

Floor Amendment No. 1 to **HB 313**, by Representative Webb:

HB 313, On page 1, line 4, after "***seeking to***" insert "***establish,***"; and

On page 1, line 15, delete "***centers***" and insert "***center***" in lieu thereof; and

On page 1, line 22, at the beginning of the line after "***(c)***", delete the word "***Serves***" and insert the words "***Is located in***" in lieu thereof; and

On page 2, line 13, after "***the***" insert "***establishment,***"; and

On page 3, line 8, after the word "***shall***" delete the words "***give priority consideration***" and insert the words "***only provide funding***" in lieu thereof; and

On page 3, line 9, after the words "***seeking to***" insert "***establish,***"; and

On page 3, line 10, after the words "***relocate into***" insert the words "***a county designated as a***"; and

On page 3, line 11, at the beginning of the line, delete the word "***areas***" and insert the following words "***area where there is not an existing hospital in that county. If there is an existing hospital in the county, the eligible primary care center shall have a documented agreement of support or collaboration between the eligible primary care center and each existing hospital in that county***" in lieu thereof.

Floor Amendment No. 2 to **HB 313**, by Representative Webb:

HB 313, On page 5, delete line 2 and insert the following in lieu thereof:

"Section 7. KRS 216B.155 is amended to read as follows:

(1) All health care facilities and services licensed under this chapter, with the exception of personal care homes, family care homes, and boarding homes, shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems related to the quality of health care facilities and services. These standards shall be made available upon request to the public during regular business hours and shall include:

(a) An ongoing written internal quality assurance or improvement program;

(b) Specific, written guidelines for quality care studies and monitoring;

(c) Performance and clinical outcomes-based criteria;

(d) Procedures for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment;

(f) A peer review process; and

(g) A summary of process outcomes and follow-up actions related to the overall quality improvement program for the health care facility or service.

Current federal or state regulations which address quality assurance and quality improvement requirements for nursing facilities, intermediate care facilities, and skilled care facilities shall suffice for compliance with the standards in this section.

(2) All health care facilities licensed, with the exception of personal care homes, family care homes, ***community mental health centers, primary care centers not operated by a hospital, rural health clinics not operated by a hospital,*** and boarding homes, under this chapter, shall use the application form and guidelines established pursuant to KRS 304.17A-545(5) for assessing the credentials of those applying for privileges.

Section 8. Sections 1 to 6 of this Act shall take effect July 1, 2008.".

Floor Amendment No. 1 to **HB 397**, by Representative Gray:

HB 397, On page 2, line 19, after the word "county," by inserting "***or the legislative body of a***"; and

On page 2, line 21, after the word "***government***" by adding "***,***".

Floor Amendment No. 2 to the Committee Substitute to **HB 187**, by Representative Richards:

HB 187, On page 11, after line 6, by inserting the following:

"Section 9. KRS 500.110 is amended to read as follows:

(1) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of this state, and whenever during the continuance of the term of imprisonment there is pending in any jurisdiction of this state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he ***or she*** shall be brought to trial within one hundred and eighty (180) days after he ***or she*** shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his ***or her*** imprisonment and his ***or her*** request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his ***or her*** counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(2) Except as provided in subsection (1) of this section, if a person is in custody awaiting trial for the commission of a crime, he or she shall be brought to trial within:

(a) Thirty (30) days after the trial court obtains jurisdiction of the case for a misdemeanor offense; or

(b) Sixty (60) days after the trial court obtains jurisdiction of the case for a felony offense.

The trial court may, upon request of the defendant or his or her counsel in open court and for good cause shown, grant any necessary or reasonable continuance.

(3) Unless a case under subsection (2) of this section comes to trial or is continued, the costs of detaining a defendant beyond the times established in subsection (2) of this section shall be reimbursed by the Court of Justice to the fiscal court of the county otherwise responsible for the costs of detention.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representative Denham

HB 26, Representative Thompson

HB 50, Representative Hoover

HB 70, Representative Hall

HB 83, Representative Tilley

HB 145, Representative Tilley

HB 167, Representatives Miller, Butler, Hall, and Edmonds

HB 228, Representative Tilley

HB 237, Representative Rollins

HB 280, Representative Nelson

HB 357, Representatives Edmonds and Hall

HB 417, Representative Harmon

HB 418, Representatives Combs and Hall

HB 440, Representatives Edmonds and Hall

HB 468, Representatives Vincent and Greer

HB 490, Representative L. Belcher

HB 500, Representative Hoffman

HCR 126, Representative Combs

Announcements

Committee on Appropriations and Revenue, upon adjournment, Room 154

Committee on Judiciary, noon, Wednesday, February 28, 2007

Committee on Agriculture and Small Business, no meeting at 8:00 a.m. on Wednesday, February 28, 2007

Committee on Licensing and Occupations, 9:30 a.m., Wednesday, February 28, 2007

Committee on Labor and Industry, 15 minutes upon adjournment, Room 316

Committee on Local Government, during Rules Recess, Wednesday, February 28, 2007, Room 305

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Wednesday, February 28, 2007.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 28, 2007, was adopted by voice vote.

WEDNESDAY, FEBRUARY 28, 2007

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Tony Campbell, Concord United Church, Brooksfield, Kentucky, guest of Representative Denham.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Alison Wasson, a guest of Representative Henderson, sang the National Anthem.

The roll was called. All members were present.

Senate Message

Announcing passage of **SB 46, 57, 62, 67, 86, 91, 110, 111, 130, 150, 185, 186,** and **SJR 109**. (2:01 p.m.)

Representative Ballard moved that the reading of the Journal of February 27, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative DeWeese moved that he be recorded as voting "Yea" on **HB 196** and **83**. Agreed.

Representative Henderson moved that he be recorded as voting "Yea" on **HB 196**. Agreed.

Representative Harmon moved that his vote be changed from "Nay" to "Yea" on **HB 278**. Agreed.

Representative Nesler moved that he be recorded as voting "Yea" on **HB 196**. Agreed.

Representative Westrom moved that she be recorded as voting "Yea" on **HR 61**. Agreed.

Representative Meeks moved that he be recorded as voting "Yea" on **HB 259**. Agreed.

Representative Horlander moved that he be recorded as voting "Yea" on **HB 325**. Agreed.

Representative Yonts moved that he be recorded as voting "Yea" on **HB 514**. Agreed.

Representative Denham moved that his vote be changed from "Yea" to "Nay" on **HB 130**. Agreed.

Representative Farmer moved that he be recorded as voting "Yea" on **HB 177, 400,** and **418**. Agreed.

Representative Adkins moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Adkins moved the adoption of the following **Legislative Citation No. 51**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Morehead State University Co-ed and All-Girl Cheerleading Squads upon the Co-ed Squad capturing their sixteenth National Championship and fifth consecutive national title and the All-Girl Squad capturing their sixth National Championship title during competition for the 2007 UCA Collegiate National Championship, continuing MSU's record for the most collegiate championships ever won by any college squad worldwide. Additionally, combining the wins by the MSU Co-ed Squads and those of the MSU All-Girl Squads, both teams have won an unprecedented combined total of twenty-three National Championships for Morehead State University. Inasmuch as these talented athletes have demonstrated great heart, fine team spirit and exceptional athletic skill, the members of this distinguished body are delighted to join Representative Rocky Adkins and Representative John Will Stacy in applauding the grand success of the Morehead State University Co-ed and All-Girls Cheerleading Squads and in extending best wishes for continued accomplishment and good fortune. Done in Frankfort, Kentucky, this twenty-eighth day of February, in the year two thousand and seven.

Legislative Citation No. 51 was adopted without objection.

Representative Stein moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Stein moved the adoption of the following **Legislative Citation No. 53**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Morton Middle School Cheerleaders as this phenomenal group of cheerleaders, one of Kentucky's largest teams with forty-five members, continues to build on the school's winning tradition of forty first-place honors in the past nine years. Inasmuch as the Morton Middle School Large Coed Team placed first at Cheers of the Bluegrass in November; sixth at Jamfest Nationals in December; and won State Coed Middle School Championship honors in January of this year, and the Morton Middle School Small Coed Team won second place honors in their division at the State Middle School Cheer competition, the members of this honorable body are delighted to join with Representative Kathy W. Stein in commending the Morton Middle School Cheerleaders for their remarkable athletic accomplishments; for performing as high academic achievers by maintaining a GPA of 3.0 or better; and, for actively participating in numerous community service projects including the Juvenile Diabetes Walk, the Holiday Parade and the Lexington Legends' Baseball game. This honorable body applauds the Morton Middle School Cheerleaders, along with their stellar coaching staff, for the honor and esteem they have brought to their school, their family and their community and extends a warm welcome as they visit the House Chamber during the 2007 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this twenty-eighth day of February, in the year two thousand and seven.

Legislative Citation No. 53 was adopted without objection.

Representative Pasley moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 178, by Representative Pasley: A RESOLUTION adjourning the House of Representatives in honor of Don Rose, recipient of the 2006 AARP Andrus Award for Community Service for Kentucky.

Representative Pasley moved the adoption of the following **HR 178**:

HR 178, A RESOLUTION adjourning the House of Representatives in honor of Don Rose, recipient of the 2006 AARP Andrus Award for Community Service for Kentucky.

WHEREAS, the AARP Andrus Award can be traced back to the life and vision of Dr. Ethel Percy Andrus who founded the organization in 1958. Her motto, "to serve, not to be served," has shaped AARP's community service efforts at the national, state, and local levels throughout the years, and the Andrus Award is the group's most prestigious award, recognizing one person from each state who has demonstrated the power to make life better through efforts that advance AARP's mission, vision, values, and priorities; and

WHEREAS, Don Rose, an "everyday hero" to those who know him, is committed to serving others and has inspired and touched many lives. Whether driving older neighbors to doctors' appointments, teaching Driving Safety, advocating for AARP legislation with his Chapter, or delivering fresh produce from his garden, Mr. Rose is always serving others. He serves on the Marine Corps League of Winchester Honor Guard and assists at the funerals of all veterans in the Clark County area. As the lead volunteer in the Veterans' History Project in the area, he has amassed more than 100 recorded histories of American war veterans to be entered into the archives of the Library of Congress. He has also trained many volunteers to continue his work, and encouraged Morehead State University to include World War II, Korean War, and Vietnam War veterans' histories as part of the history curriculum; and

WHEREAS, Mr. Rose is just one of tens of thousands of volunteers who assist over 2.6 million people annually through a variety of community-based AARP programs and activities, and he has dedicated his heart, time, and skills in fulfilling Dr. Ethel Percy Andrus' vision and legacy of providing education, promoting volunteer service, and advocating for everyone of advancing years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives salutes Mr. Don Rose, deserving recipient of the 2006 AARP Andrus Award for Community Service for Kentucky, and a man who exemplifies the words of the founder of AARP, "The person who uses a portion of his leisure to the unselfish service of his fellowman finds in his purposefulness that he can influence and change existing circumstances for the better."

Section 2. When the House of Representatives adjourns this day, it does so in honor of Mr. Don Rose.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Don Rose, 1148 The Ridings Road, Winchester, Kentucky 40391-8205.

There being no objection, **HR 178** was adopted.

Introduction of Bills and Resolutions (Continued)

HR 180, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Carl Luther "Hoot" Combs.

HR 177, by Representative Tilley: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Fred Clayton.

HR 179, by Representative Dedman: A RESOLUTION recognizing Harrodsburg as the home of the Kentucky Fort Harrod Beef Festival.

HR 182, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in honor of our friend and colleague, Paula Payne, and wishing her a full and speedy recovery.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Licensing and Occupations: **SB 30, 156**

Health and Welfare: **SB 98, 104**

Judiciary: **HB 363, 364, 365, 420, 421, 423**

Report of Committees

The Committee on Judiciary reported **HB 74, HB 358,** with Committee Substitute attached thereto, **HB 363, HB 364, HB 365, HB 421, HB 423, HB 438,** with Committee Substitute attached thereto, **HCR 159, SB 65,** and **SJR 48** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 74, AN ACT relating to animal cruelty.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.125 is amended to read as follows:

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(3) Cruelty to animals in the first degree is a Class D felony.

(4) In addition to any other penalty assessed, if a person is convicted of violation of this section, the court shall order that the reasonable and necessary costs of confiscation and keeping of the animal be borne by the defendant and that the defendant shall forfeit ownership of the animal or animals.

Section 2. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish, or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(e) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;

(f) For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(g) In defense of self or another person against an aggressive or diseased animal;

(h) In defense of a domestic animal against an aggressive or diseased animal;

(i) For animal or pest control; or

(j) For any other purpose authorized by law.

(3) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

(5) In addition to any other penalty assessed, if a person is convicted of violation of this section, the court shall order that the reasonable and necessary costs of confiscation and keeping of the animal be borne by the defendant and that the defendant shall forfeit ownership of the animal or animals.

Section 3. KRS 525.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires, "torture" means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(3) Torture of a dog or cat is a Class A misdemeanor for the first offense, and a Class D felony for the second and subsequent offenses.

(4) ***In addition to any other penalty assessed, if a person is convicted of violation of this section, the court shall order that the reasonable and necessary costs of confiscation and keeping of the animal be borne by the defendant and that the defendant shall forfeit ownership of the animal or animals.***

(5) Nothing in this section shall apply to the killing or injuring of a dog or cat:

(a) In accordance with a license to hunt, fish, or trap;

(b) For humane purposes;

(c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;

(e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(f) In defense of self or another person against an aggressive or diseased dog or cat;

(g) In defense of a domestic animal against an aggressive or diseased dog or cat;

(h) For animal or pest control; or

(i) For any other purpose authorized by law.

(6)[~~(5)~~] Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(7)[~~(6)~~] The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

Section 4. KRS 436.605 is amended to read as follows:

(1) Animal control officers and officers and agents of humane societies who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services shall have the powers of peace officers, except for the power of arrest, for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, provided they possess the qualifications required under KRS 61.300.

(2) When any peace officer, animal control officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering

or animal control services makes an oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty, mistreatment, or torture of animals is being committed in a building, barn, or other enclosure, the judge shall issue a search warrant directed to the peace officer, animal control officer, or officer or agent of the society or association for the prevention of cruelty to animals to search the premises *and, if appropriate, impound any animal suspected of being abused, mistreated, or tortured*. If a peace officer finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the offender or offenders shall be immediately arrested by the peace officer and brought before the court for trial. If an animal control officer or an officer or agent of a society or association for the prevention of cruelty to animals finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the officer or agent shall summon a peace officer to arrest the offender or offenders and bring them before the court for trial.

(3) If an animal is impounded pursuant to subsection (2) of this section, any peace officer, animal control officer, or officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is holding the animal may, prior to final disposition of any criminal charge under KRS 525.125, 525.130, or 525.135 against the animal's owner, file a petition in the criminal action requesting that the court issue an order of forfeiture of the animal to the petitioner. The petitioner shall serve a true copy of the petition upon the defendant and prosecuting attorney.

(4) Upon receipt of a petition filed pursuant to subsection (3) of this section, the court shall set a hearing on the petition which shall be conducted within fourteen (14) business days after the filing of the petition unless a longer period is agreed to by the parties.

(5) At the hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause that the animal was subjected to a violation of KRS 525.125, 525.130, or 525.135. If after the hearing the court finds that the petitioner has met this burden, the court shall, except for good cause shown, enter an order:

  (a) Directing the defendant to post a security deposit or bond with the court clerk in an amount sufficient to reimburse the petitioner for all reasonable costs incurred by the petitioner for the care of the animal from the date of initial impoundment to the date of trial; or

  (b) Forfeiting the animal to the petitioner.

(6) If after the posting of a security deposit or bond in accordance with subsection (5) of this section the trial date is continued, the court shall, as part of the order of continuance, require the defendant to post additional security, as determined by the court, to cover the additional expenses anticipated to be incurred for the care of the animal until the new trial date.

(7) If a security deposit or bond has been posted in accordance with subsection (6) of this section, the petitioner may draw from that deposit or bond the actual and reasonable costs incurred by the petitioner for the care of the animal since the initial impoundment.

HB 358, AN ACT relating to criminal justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

The certification of a peace officer may, after a hearing held in conformity with KRS Chapter 13B, be revoked by the council for one (1) or more of the following:

(1) Failure to meet or maintain training requirements;

(2) Willful falsification of information to obtain or maintain certified status;

(3) Certification that was the result of an administrative error;

(4) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(5) Prohibition by federal or state law from possessing a firearm; or

(6) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

Section 2. KRS 15.330 is amended to read as follows:

(1) The council is vested with the following functions and powers:

  (a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement and telecommunications training courses required under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

  (b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

  (c) To prescribe qualifications for attendance and conditions for expulsion from such schools;

(d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunicators, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;

(e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to ***15.404***[~~15.510, 15.530 to 15.590, and 15.990 to 15.992~~];

(f) To approve law enforcement officers, telecommunicators, and other persons as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;

(g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992, any information or documents;

(h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to ***15.404***[~~15.510, 15.530 to 15.590, and 15.990 to 15.992~~];

(i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;

(j) To adopt bylaws for the conduct of its business not otherwise provided for; and

(k) The council shall have the authority to certify police officers as set out in this chapter.

(2) The provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 do not apply to the Department of State Police except for the certification requirement established by this chapter.

Section 3. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:

(1) Be a citizen of the United States;

(2) Be at least twenty-one (21) years of age;

(3) Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;

(4) Possess a valid license to operate a motor vehicle;

(5) Be fingerprinted for a criminal background check;

(6) Not have been convicted of any felony;

(7) Not be prohibited by federal or state law from possessing a firearm;

(8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

(9) Have not received a dishonorable discharge, ***bad conduct discharge,*** or general discharge under other than honorable conditions if having served in any branch of the armed forces of the United States;

(10) Have passed a medical examination as defined by the council by administrative regulation to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(13) Have been interviewed by the employing agency;

(14) Not have had certification as a peace officer permanently revoked in another state;

(15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as

demonstrating compliance with KRS 15.315 to 15.510; and

(17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.

Section 4. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those ***peace*** officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he ***or she*** was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate.

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he ***or she*** was appointed or employed.

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he ***or she*** was employed or appointed and has no peace officer powers; or
2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to ***Section 1 of this Act***[~~KRS 15.380 to 15.404~~] and successfully completes in-service training as prescribed by the council, as follows:

1. [~~No more than forty (40) hours~~]If the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation***, he or she shall complete:***
   - ***a. The twenty-four (24) hour legal update Penal Code course;***
   - ***b. The sixteen (16) hour legal update constitutional procedure course; and***
   - ***c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status***; or
2. [~~No more than eighty (80) hours~~]If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation***, he or she shall complete:***
   - ***a. The twenty-five (24) hour legal update Penal Code course;***
   - ***b. The sixteen (16) hour legal update constitutional procedure course;***
   - ***c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and***
   - ***d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:***
     - ***i. Basic officer skills;***
     - ***ii. Orientation for new police chiefs; or***
     - ***iii. Mandatory duties of the sheriff.***

(c) A person returning from inactive to active certification after the effective date of this Act, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:

1. Be a citizen of the United States;

2. Possess a valid license to operate a motor vehicle;

3. Be fingerprinted for a criminal background check;

4. Not have been convicted of any felony;

5. Not be prohibited by federal or state law from possessing a firearm;

6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other

than honorable conditions if having served in any branch of the Armed Forces of the United States;

8. Have been interviewed by the employing agency; and

9. Not have had certification as a peace officer permanently revoked in another state.

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.

(5) "Revoked status" means that the officer has no enforcement powers and ***his or her certification has been revoked by the Kentucky Law Enforcement Council***[~~has been separated from an enforcement agency~~] for any one (1) of the following reasons:

(a) Failure to meet or maintain training requirements;

(b) Willful falsification of information to obtain or maintain certified status;

(c) Certification was the result of an administrative error;

(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(e) Prohibition by federal or state law from possessing a firearm***; or***

(f) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

(7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

Section 5. KRS 15.392 is amended to read as follows:

(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.

(2) If the person[~~ has been~~] separated ***from service has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status. Placement of certification on inactive status shall not prevent the council from subsequently instituting an action to revoke an officer's certification in appropriate cases in accordance with Section 1 of this Act*** for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.

(3) If the person has been separated ***from service or***[~~for any other reason other than death, or one justifying revoked or denied status pursuant to KRS 15.386; and~~

~~(a) The person has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status; or~~

~~(b) The person~~] has not successfully completed basic training at a school certified or recognized by the council, the certification shall lapse.

(4) If the person has been separated due to death, the certification shall be retired.

[~~(5) The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.~~

~~(6) The council shall not accept or hear complaints.~~]

Section 6. KRS 15.404 is amended to read as follows:

(1) ***(a)*** Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete at least six hundred forty (640) hours of basic training at a school certified or recognized by the Kentucky Law Enforcement Council.

(b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing basic training within one (1) year, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.

(c) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Further, the peace officer shall be prohibited from serving as a peace officer for a period of one (1) year from the date that his or her precertification lapses.

(2) ***(a)*** All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the

officer's rank and responsibility and the size and location of his department.

(b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training. If the officer is unable to complete the in-service training due to injury or illness that prevents him or her from working as a peace officer, the one hundred eighty (180) day extension shall begin on the date that the officer returns to work.

(c) Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status.

(d) When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.

(e) The requirements of this subsection shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces.

(f) This waiver shall be retroactive for peace officers from the date of September 11, 2001.

(3) [~~In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.~~

~~(4) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status. When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.~~

~~(5)~~]An officer who has lost his or her law enforcement powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and law enforcement powers upon successful completion of the training deficiency.

Section 7. KRS 18A.202 is amended to read as follows:

(1) The secretary is authorized to install and implement by administrative regulation work-related incentive programs for state employees. Such programs may include, but need not be limited to, an employee suggestion system whereby employees in the classified service *and employees falling under KRS Chapter 16* may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. Such programs may provide that when an employee suggestion has been adopted and resulted in a financial savings to the state, the employee who submitted the suggestion may be compensated for his service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars ($2,500).

(2) Nothing in this section shall be construed to allow KRS Chapter 16 employees to collect any fees or rewards for performance of acts in the line of duty as prohibited in KRS 16.110.

Section 8. KRS 197.025 is amended to read as follows:

(1) KRS *61.870 to* 61.884[~~ and 61.878~~] to the contrary notwithstanding, no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.

(2) KRS *61.870 to 61.884*[~~61.872~~] to the contrary notwithstanding, the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, unless the request is for a record which contains a specific reference to that individual.

(3) KRS *61.870 to 61.884*[~~61.880~~] to the contrary notwithstanding, all persons confined in a penal facility shall challenge any denial of an open record with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.

(4) KRS *61.870 to 61.884*[~~61.872~~] to the contrary notwithstanding, the Department of Corrections shall refuse to accept the hand delivery of an open records request from a confined inmate.

(5) KRS 61.870 to 61.884 to the contrary notwithstanding, all records containing information expunged pursuant to law shall not be open to the public.

(6) The policies and procedures or administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for *any of* these policies and procedures or administrative regulations*, which may be filed with the regulations compiler,* shall be conducted in closed sessions *and held confidential*.

(7) KRS ***61.870 to 61.884***[~~61.880(1)~~] to the contrary notwithstanding, upon receipt of a request for any record, the department shall ***respond to the request***[~~determine~~] within five (5) days after receipt of the request, excepting Saturdays, Sundays, and legal holidays, ***and state*** whether the record ***may be inspected or may not be inspected, or that the record is unavailable and when the record is expected to be available***[~~shall be released~~].

SECTION 9. A NEW SECTION OF KRS CHAPTER 197\ IS CREATED TO READ AS FOLLOWS:

(1) Whenever a court finds the personal attendance of a state prisoner is necessary in a civil action and orders the Justice Cabinet or its agent or any law enforcement officer to transport a prisoner in connection with the civil action, the party requesting that the state prisoner be transported to the hearing shall pay the transportation cost, which shall include the estimated round trip cost, including the state mileage rate and the estimated associated salary cost of correctional staff.

(2) The court shall cause all transportation orders to be delivered to the warden or jailer of the detention facility where the prisoner resides. As soon as practicable after the receipt of the order, the warden or jailer shall notify the prisoner and the court of the total transportation cost. If the payment is not received twenty-four (24) hours in advance of the scheduled hearing, no transportation shall be provided, irrespective of the order of the court commanding the Justice Cabinet or its agent or other law enforcement officer to transport a prisoner.

(3) To the extent practicable, any action concerning a prisoner in which the court has determined that the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

(4) The provisions of this section pertaining to payment of transportation costs shall not apply to parties who have been determined by the court to be indigent within the meaning of KRS Chapter 31 or other applicable law.

(5) The Justice Cabinet shall promulgate an administrative regulation or regulations governing this process.

Section 10. KRS 213.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health and Family Services;

(2) "Dead body" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;

(4) "File" means the presentation of a vital record provided for in this chapter for registration by the Vital Statistics Branch;

(5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;

(6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management of prolonged retention of product of conception following fetal death;

(7) "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care, or to which persons are committed by law;

(8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after the expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(9) "Provisional death certificate" means an interim certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;

(10) "Registration" means the acceptance by the Vital Statistics Branch and the incorporation of vital records provided for in this chapter into its official records;

(11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records and the collection of other reports required by this chapter;

(12) "Secretary" means the secretary for health and family services;

(13) "Sudden infant death syndrome" means the death of an ***infant under one (1) year***[~~ostensibly healthy child who is two (2) weeks~~] of age[~~ or older but less than three (3) years of age,~~] which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of ***a complete investigation, including scene circumstances, clinical history, and complete***[~~an~~] autopsy;

(14) "Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or annulment, and data related thereto;

(15) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of

pregnancy, marriage, dissolution of marriage, and related reports;

(16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution of marriage, or annulment as required by this chapter;

(17) "Commission" means the Commission for Children with Special Health Care Needs;

(18) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels; and

(19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

SECTION 11. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

(1) KRS 61.884, 61.878, 610.340, and 610.342 to the contrary notwithstanding, no person shall have access to any records, including video surveillance, if the disclosure would have a reasonable likelihood of threatening the security of a juvenile housed at a juvenile facility operated or contracted by the Department of Juvenile Justice, staff members, the facility, or any other person by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a threat to the security of a juvenile facility.

(2) KRS 61.872 to the contrary notwithstanding, the Department of Juvenile Justice shall not be required to comply with a request for any record from any juvenile or other person confined in a juvenile facility, including a youth development center, detention facility, group home, or any other facility operated or contracted by the Department of Juvenile Justice, or any individual on active supervision under the jurisdiction of the department, unless the request is for a record which contains a specific reference to that individual.

(3) KRS 61.880, 610.340, and 610.342 to the contrary notwithstanding, all persons confined in a juvenile facility may challenge any denial of a request for an open record with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2).

(4) KRS 61.872 to the contrary notwithstanding, the Department of Juvenile Justice shall refuse to accept the hand delivery of an open records request from a confined juvenile.

(5) KRS 61.870 to KRS 61.884 to the contrary notwithstanding, all records relating to juvenile detention containing information expunged pursuant to law shall not be open to the public.

(6) KRS 61.872 to the contrary notwithstanding, the policies and procedures or administrative regulations of the Department of Juvenile Justice which address the security and control of a juvenile facility, or the security and control of juveniles or other persons committed to the Department of Juvenile Justice, shall not be accessible to the public, juveniles, or any other persons, other than employees of the Department of Juvenile Justice and those persons specifically authorized by the Department of Juvenile Justice to access such records. The Administrative Regulations Review Subcommittee's review process for these secure policies and procedures or administrative regulations shall be conducted in closed sessions.

(7) KRS 61.880(1) to the contrary notwithstanding, upon receipt of a request for any record, the Department of Juvenile Justice shall determine within five (5) days after receipt of the request, excepting Saturdays, Sundays, and legal holidays, whether the record shall be released.

(8) Nothing in this section shall authorize the Department of Juvenile Justice to deny any attorney representing a juvenile access to any record to which the attorney or the juvenile would otherwise be entitled.

Section 12. KRS 610.265 is amended to read as follows:

(1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing.

(2) (a) Within the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

(b) If the court orders a child detained further after the detention hearing, that detention shall be served as follows:

1. If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.

2. If it is alleged that the child is a status offender, detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.

3. If a status offender is charged with violating a valid court order, and the court orders the child to serve detention, that detention shall be served in a nonsecure setting approved by the Department of Juvenile Justice unless the court issues an order in accordance with the requirements of subparagraph 4. of this paragraph.

4. Prior to ordering a status offender who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:

a. Affirm that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;

b. Make a determination during the detention hearing that there is probable cause to believe that the child violated the valid court order; and

c. Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays,~~[receive an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency,]~~ or receive and review a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing within twenty-four (24) hours of the receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a status offender.

5. If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.

6. If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.

(c) If the detention hearing is not held as provided in subsection (1) of this section, the child shall be released as provided in KRS 610.290.

(d) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult.

Section 13. KRS 630.080 is amended to read as follows:

(1) In order for the court to detain a child after the detention hearing, the Commonwealth shall establish probable cause at the detention hearing that the child is a status offender and that further detention of the child is necessary for the protection of the child or the community. If the Commonwealth fails to establish probable cause that the child is a status offender, the complaint shall be dismissed and the child shall be released. If the Commonwealth establishes probable cause that the child is a status offender, but that further detention of the child is not necessary for the protection of the child or the community, the child shall be released to the parent or person exercising custodial control or supervision of the child. If grounds are established that the child is a status offender, and that further detention is necessary, the child may be placed in a nonsecure setting approved by the Department of Juvenile Justice;

(2) A status offender may be securely detained if the cabinet has initiated or intends to initiate transfer of the youth by competent document under the provisions of the interstate compact pursuant to KRS Chapter 615;

(3) A status offender who is subject to a valid court order may be securely detained upon a finding that the child violated the valid court order if the court does the following prior to ordering that detention:

(a) Affirms that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;

(b) Makes a determination during the detention hearing that there is probable cause that the child violated the valid court order; and

(c) Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays,~~[receives an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or]~~ receives and reviews a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing within twenty-four (24) hours of the receipt of the report, exclusive of weekends and holidays. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a status offender.

Section 14. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child;

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or

(i) Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months;

(2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:

(a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;

(b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;

(c) The parent has sexually abused the child and has refused available treatment;

(d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or

(e) The parent has caused the child serious physical injury;

(3) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

(4) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

(5) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is

approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(6) "Cabinet" means the Cabinet for Health and Family Services;

(7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(8) "Child" means any person who has not reached his eighteenth birthday, unless otherwise provided***. "Child" also includes a person who committed, prior to his or her eighteenth (18th) birthday, a status offense, public offense, or is a youthful offender who is retained in the juvenile system past the age of eighteen (18) years by the juvenile session of the District Court for a purpose authorized by law***;

(9) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(10) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(11) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(12) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(13) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(17) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(18) "Department" means the Department for Community Based Services;

(19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(20) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection;

(21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;

(22) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(23) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(24) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(25) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(26) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(27) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(28) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;

(29) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(30) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(31) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(32) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(33) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;

(34) "Juvenile holding facility" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;

(35) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;

(36) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(37) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(38) "Needs of the child" means necessary food, clothing, health, shelter, and education;

(39) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(40) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

(41) "Parent" means the biological or adoptive mother or father of a child;

(42) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(43) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(44) "Physical injury" means substantial physical pain or any impairment of physical condition;

(45) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;

(46) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(47) "Qualified mental health professional" means:

  (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

  (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

  (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or

(g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(48) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(49) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(50) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(51) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(52) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(53) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(54) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(55) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(56) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(57) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(58) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(59) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(60) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:

(a) Who was brought before the court and made subject to the order;

(b) Whose future conduct was regulated by the order;

(c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and

(d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the

United States.

(61) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(62) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

(63) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

The Committee Substitute to **HB 358** is as follows:

HB 358, AN ACT relating to criminal justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

The certification of a peace officer may, after a hearing held in conformity with KRS Chapter 13B, be revoked by the council for one (1) or more of the following:

(1) Failure to meet or maintain training requirements;

(2) Willful falsification of information to obtain or maintain certified status;

(3) Certification that was the result of an administrative error;

(4) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(5) Prohibition by federal or state law from possessing a firearm; or

(6) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

Section 2. KRS 15.330 is amended to read as follows:

(1) The council is vested with the following functions and powers:

  (a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement and telecommunications training courses required under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

  (b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

  (c) To prescribe qualifications for attendance and conditions for expulsion from such schools;

  (d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunicators, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;

  (e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to ***15.404***[~~15.510, 15.530 to 15.590, and 15.990 to 15.992~~];

  (f) To approve law enforcement officers, telecommunicators, and other persons as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;

  (g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992, any information or documents;

  (h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to ***15.404***[~~15.510, 15.530 to 15.590, and 15.990 to 15.992~~];

  (i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;

  (j) To adopt bylaws for the conduct of its business not otherwise provided for; and

  (k) The council shall have the authority to certify police officers as set out in this chapter.

(2) The provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 do not apply to the Department of State Police except for the certification requirement established by this chapter.

Section 3. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:

(1) Be a citizen of the United States;

(2) Be at least twenty-one (21) years of age;

(3) Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;

(4) Possess a valid license to operate a motor vehicle;

(5) Be fingerprinted for a criminal background check;

(6) Not have been convicted of any felony;

(7) Not be prohibited by federal or state law from possessing a firearm;

(8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

(9) Have not received a dishonorable discharge, ***bad conduct discharge,*** or general discharge under other than honorable conditions if having served in any branch of the armed forces of the United States;

(10) Have passed a medical examination as defined by the council by administrative regulation to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(13) Have been interviewed by the employing agency;

(14) Not have had certification as a peace officer permanently revoked in another state;

(15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.315 to 15.510; and

(17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.

Section 4. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those ***peace*** officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he ***or she*** was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate.

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he ***or she*** was appointed or employed.

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he ***or she*** was employed or appointed and has no peace officer powers; or

2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to ***Section 1 of this Act***[~~KRS 15.380 to 15.404~~] and successfully completes in-service training as prescribed by the council, as follows:

1. [~~No more than forty (40) hours~~]If the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation***, he or she shall complete:***
    - ***a. The twenty-four (24) hour legal update Penal Code course;***
    - ***b. The sixteen (16) hour legal update constitutional procedure course; and***
    - ***c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status***; or
2. [~~No more than eighty (80) hours~~]If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation***, he or she shall complete:***
    - ***a. The twenty-four (24) hour legal update Penal Code course;***
    - ***b. The sixteen (16) hour legal update constitutional procedure course;***
    - ***c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and***
    - ***d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:***
        - ***i. Basic officer skills;***
        - ***ii. Orientation for new police chiefs; or***
        - ***iii. Mandatory duties of the sheriff.***

(c) A person returning from inactive to active certification after the effective date of this Act, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:

1. Be a citizen of the United States;

2. Possess a valid license to operate a motor vehicle;

3. Be fingerprinted for a criminal background check;

4. Not have been convicted of any felony;

5. Not be prohibited by federal or state law from possessing a firearm;

6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions if having served in any branch of the Armed Forces of the United States;

8. Have been interviewed by the employing agency; and

9. Not have had certification as a peace officer permanently revoked in another state.

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.

(5) "Revoked status" means that the officer has no enforcement powers and ***his or her certification has been revoked by the Kentucky Law Enforcement Council***[~~has been separated from an enforcement agency~~] for any one (1) of the following reasons:

(a) Failure to meet or maintain training requirements;

(b) Willful falsification of information to obtain or maintain certified status;

(c) Certification was the result of an administrative error;

(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(e) Prohibition by federal or state law from possessing a firearm***; or***

(f) Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

(7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

Section 5. KRS 15.392 is amended to read as follows:

(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.

(2) If the person[~~ has been~~] separated *from service has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status. Placement of certification on inactive status shall not prevent the council from subsequently instituting an action to revoke an officer's certification in appropriate cases in accordance with Section 1 of this Act* for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.

(3) If the person has been separated *from service or*[~~for any other reason other than death, or one justifying revoked or denied status pursuant to KRS 15.386; and~~

~~(a) The person has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status; or~~

~~(b) The person~~] has not successfully completed basic training at a school certified or recognized by the council, the certification shall lapse.

(4) If the person has been separated due to death, the certification shall be retired.

[~~(5) The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.~~

~~(6) The council shall not accept or hear complaints.~~]

Section 6. KRS 15.404 is amended to read as follows:

(1) *(a)* Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete at least six hundred forty (640) hours of basic training at a school certified or recognized by the Kentucky Law Enforcement Council.

(b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing basic training within one (1) year, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.

(c) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Further, the peace officer shall be prohibited from serving as a peace officer for a period of one (1) year from the date that his or her precertification lapses.

(2) *(a)* All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the officer's rank and responsibility and the size and location of his department.

(b) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training. If the officer is unable to complete the in-service training due to injury or illness that prevents him or her from working as a peace officer, the one hundred eighty (180) day extension shall begin on the date that the officer returns to work.

(c) Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status.

(d) When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.

(e) The requirements of this subsection shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces.

(f) This waiver shall be retroactive for peace officers from the date of September 11, 2001.

(3) [~~In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.~~

~~(4) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status. When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.~~

~~(5)~~]An officer who has lost his or her law enforcement powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and law enforcement powers upon successful completion of the training deficiency.

Section 7. KRS 18A.202 is amended to read as follows:

(1) The secretary is authorized to install and implement by administrative regulation work-related incentive programs for state employees. Such programs may include, but need not be limited to, an employee suggestion system whereby employees in the classified service ***and employees falling under KRS Chapter 16*** may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. Such programs may provide that when an employee suggestion has been adopted and resulted in a financial savings to the state, the employee who submitted the suggestion may be compensated for his service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars ($2,500).

(2) Nothing in this section shall be construed to allow KRS Chapter 16 employees to collect any fees or rewards for performance of acts in the line of duty as prohibited in KRS 16.110.

Section 8. KRS 197.025 is amended to read as follows:

(1) KRS ***61.870 to*** 61.884[~~ and 61.878~~] to the contrary notwithstanding, no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.

(2) KRS ***61.870 to 61.884***[~~61.872~~] to the contrary notwithstanding, the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, unless the request is for a record which contains a specific reference to that individual.

(3) KRS ***61.870 to 61.884***[~~61.880~~] to the contrary notwithstanding, all persons confined in a penal facility shall challenge any denial of an open record with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.

(4) KRS ***61.870 to 61.884***[~~61.872~~] to the contrary notwithstanding, the Department of Corrections shall refuse to accept the hand delivery of an open records request from a confined inmate.

(5) KRS 61.870 to 61.884 to the contrary notwithstanding, all records containing information expunged pursuant to law shall not be open to the public.

(6) The policies and procedures or administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for ***any of*** these policies and procedures or administrative regulations***, which may be filed with the regulations compiler,*** shall be conducted in closed sessions ***and held confidential***.

(7) KRS ***61.870 to 61.884***[~~61.880(1)~~] to the contrary notwithstanding, upon receipt of a request for any record, the department shall ***respond to the request***[~~determine~~] within five (5) days after receipt of the request, excepting Saturdays, Sundays, and legal holidays, ***and state*** whether the record ***may be inspected or may not be inspected, or that the record is unavailable and when the record is expected to be available***[~~shall be released~~].

SECTION 9. A NEW SECTION OF KRS CHAPTER 197\ IS CREATED TO READ AS FOLLOWS:

(1) Whenever a court finds the personal attendance of a state prisoner is necessary in a civil action and orders the Justice Cabinet or its agent or any law enforcement officer to transport a prisoner in connection with the civil action, the party requesting that the state prisoner be transported to the hearing shall pay the transportation cost, which shall include the estimated round trip cost, including the state mileage rate and the estimated associated salary cost of correctional staff.

(2) The court shall cause all transportation orders to be delivered to the warden or jailer of the detention facility where the prisoner resides. As soon as practicable after the receipt of the order, the warden or jailer shall notify the prisoner and the court of the total transportation cost. If the payment is not received twenty-four (24) hours in advance of the scheduled hearing, no transportation shall be provided, irrespective of the order of the court commanding the Justice Cabinet or its agent or other law enforcement officer to transport a prisoner.

(3) To the extent practicable, any action concerning a prisoner in which the court has determined that the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

(4) The provisions of this section pertaining to payment of transportation costs shall not apply to parties who have been determined by the court to be indigent within the meaning of KRS Chapter 31 or other applicable law.

(5) The Justice Cabinet shall promulgate an administrative regulation or regulations governing this process.

HB 363, AN ACT relating to the judicial department.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21A.110 is amended to read as follows:

Any retired justice or judge assigned to active judicial service pursuant to Section 110(5)(b) of the Constitution shall be compensated for his ***or her*** service as follows:

(1) The salary for each day which the justice or judge serves shall be the difference, if any, between 1/250 of annual retirement benefits and 1/250 of the annual salary for the judicial office in which he ***or she*** performs the judicial duties. However, no special judge shall receive compensation that is less than one hundred fifty dollars ($150) per day. This section shall not be construed to require a reduction in retirement benefits if the applicable salary would be less than the retirement benefits.

(2) Necessary expenses incidental to the performance of the duties of such assignment shall be paid out of the State Treasury upon approval by the Chief Justice or his ***or her*** designee.

HB 364, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.030 is amended to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he ***or she*** causes the death of ***that***[~~such~~] person or of a third person; or

(b) With intent to cause the death of another person, he ***or she*** causes the death of ***that***[~~such~~] person or of a third person under circumstances which do not constitute murder because he ***or she*** acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020.

(2) Manslaughter in the first degree is a Class B felony.

HB 365, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.560 is amended to read as follows:

(1) Damages allowable for a private nuisance shall be as follows:

(a) If the nuisance is a permanent nuisance, compensatory damages shall be measured by the reduction in the fair market value of the claimant's property caused by the nuisance, but not to exceed the fair market value of the property;

(b) If the nuisance is a temporary nuisance and:

1. The claimant occupied the property during the continuance of the nuisance, compensatory damages shall be measured by the diminution in the value of the use of the property which resulted from the nuisance; or

2. The claimant did not occupy the property during the continuance of the nuisance, compensatory damages shall be measured by the diminution in the fair rental value of the property which resulted from the nuisance.

(2) A defendant who contributes to a nuisance is responsible for damages as provided in this section only to the extent of ***that***[~~such~~] defendant's proportionate contribution to the nuisance as provided in the provisions of KRS 411.182.

(3) No damages shall be awarded for annoyance, discomfort, sickness, emotional distress, or similar claims for a private nuisance. In the event a claim for injury or damage to a person is asserted in the same proceeding as a claim for damage to the claimant's property caused by a private nuisance, liability for such personal injury or damage shall be determined on the basis of applicable principles of tort law independent of whether the defendant's use of property is found to constitute a nuisance.

(4) A claimant may recover punitive damages for a private nuisance if the claimant recovers damages pursuant to this section and the defendant's conduct in engaging in the specific activity which is alleged to be the nuisance meets or exceeds the standards set forth in KRS 411.184. All provisions of KRS 411.184 and 411.186 shall apply to claims for punitive damages.

(5) No person shall have standing to bring an action for private nuisance unless the person has an ownership interest or possessory interest in the property alleged to be affected by the nuisance.

HB 421, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 416.590 is amended to read as follows:

Upon the application of the petitioner, and the filing of any necessary affidavits, the clerk of the court shall issue process against the owner to show cause why the petitioner does not have the right to condemn the lands, or the use and occupation thereof sought to be condemned. The summons shall contain a statement of the amount of the award and shall state that an answer or other pleading, if any, ***shall***[~~must~~] be filed within twenty (20) days from date of service. The clerk shall make such orders as to nonresidents and persons under disability as are required by the statutes and Rules of Civil Procedure in actions against them in Circuit Courts.

HB 423, AN ACT relating to courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.160 is amended to read as follows:

(1) An employer shall not deprive an employee of his ***or her*** employment, or threaten or otherwise coerce him ***or her*** with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

(2) If an employer discharges an employee in violation of subsection (1) of this section, the employee may within ninety (90) days of such discharge bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee with full seniority and benefits. Damages recoverable shall not exceed lost wages. If he ***or she*** prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

HB 438, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health-care practices;

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his ***or her*** conduct as a result of the influence of an intoxicating substance administered to him ***or her*** without his ***or her*** consent or as a result of any other act committed upon him ***or her*** without his ***or her*** consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. "Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by a foreign object in the course of the performance of generally recognized health-care practices;[~~and~~]

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor;

(10) "Electronic communications device" means any equipment, instrument, machine, or other device by which communication or information is transmitted, including but not limited to:

(a) Computers, networks, or any part thereof;

(b) Internet and peripheral equipment;

(c) Cameras or other recording devices;

(d) Telephones or other personal communication devices;

(e) Scanners or other copying devices; or

(f) Any device that enables the use of a transmitting device; and

(11) "Electronic communication" means the transmission or transfer of data, images, signals, signs, writings, or other information of any nature, in whole or in part, by means of an electronic communications device.

Section 2. KRS 506.030 is amended to read as follows:

(1) A person is guilty of criminal solicitation when, with the intent of promoting or facilitating the commission of a crime, he ***or she*** commands or encourages another person to engage in specific conduct which would constitute that crime or an attempt to commit that crime or which would establish the other's complicity in its commission or attempted commission.

(2) [~~A criminal solicitation is a:~~

~~(a) Class C felony~~]When the crime solicited is a violation of KRS ***Chapter 510,*** 521.020***,***[~~ or~~] 521.050[~~;~~] ***530.064, or 531.310, the penalty for the solicitation shall be the same as the penalty for actually committing the crime. Otherwise, a criminal solicitation is a:***

(a)[~~(b)~~] Class B felony when the crime solicited is a Class A felony or capital offense;

(b)[~~(c)~~]Class C felony when the crime solicited is a Class B felony;

(c)[~~(d)~~]Class A misdemeanor when the crime solicited is a Class C or D felony; ***and***

(d)[~~(e)~~]Class B misdemeanor when the crime solicited is a misdemeanor.

Section 3. KRS 508.140 is amended to read as follows:

(1) A person is guilty of stalking in the first degree***:***[~~,~~]

(a) When he ***or she*** intentionally:

1. Stalks another person***, including through the use of an electronic communication device or electronic communication as defined in Section 1 of this Act***; and

2. Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:

a. Sexual contact as defined in KRS 510.010;

b. Serious physical injury; or

c. Death; and

(b) 1. A protective order has been issued by the court to protect the same victim or victims and the defendant has been served with the summons or order or has been given actual notice; or

2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or

3. The defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor against the same victim or victims; or

4. The act or acts were committed while the defendant had a deadly weapon on or about his ***or her*** person.

(2) Stalking in the first degree is a Class D felony.

Section 4. KRS 508.150 is amended to read as follows:

(1) A person is guilty of stalking in the second degree when he ***or she*** intentionally:

(a) Stalks another person***, including through the use of an electronic communication device or electronic communication as defined in Section 1 of this Act***; and

(b) Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:

1. Sexual contact as defined in KRS 510.010;

2. Physical injury; or

3. Death.

(2) Stalking in the second degree is a Class A misdemeanor.

Section 5. KRS 510.148 is amended to read as follows:

(1) A person is guilty of indecent exposure in the first degree when he ***or she*** intentionally exposes his ***or her*** genitals***, including sending images of his or her genitals by means of an electronic communications device or an electronic communication, as defined in Section 1 of this Act,***[~~under circumstances in which he knows or should know that his conduct is likely to cause affront or alarm~~] to a person under the age of eighteen (18) years.

(2) The intentional exposure of a person's genitals under subsection (1) of this section shall be prima facie evidence of the intent to commit the offense.

(3) It is a defense to prosecution under this section that at the time the conduct in subsection (1) of this section was committed:

(a) The defendant was married to the minor; or

(b) The defendant was not more than three (3) years older than the minor and the minor consented to the conduct.

(4) Indecent exposure in the first degree is a:

(a) Class *A*[~~B~~] misdemeanor for the first offense; *and*

(b) Class *D felony*[~~A misdemeanor~~] for *a*[~~the~~] second *or sebsequent* offense, if it was committed within three (3) years of the first conviction[~~;~~

~~(c) Class D felony for the third offense, if it was committed within three (3) years of the second conviction; and~~

~~(d) Class D felony for any subsequent offense, if it was committed within three (3) years of the prior conviction~~].

Section 6. KRS 510.155 is amended to read as follows:

(1) It shall be unlawful for any person to knowingly use *an electronic communication device or an electronic communication, as defined in Section 1 of this Act,*[~~a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means,~~] for the purpose of procuring or promoting the use of a minor, or *any individual the person has reason to believe is a minor*[~~a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief~~], for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, *510.110,* 529.030, or 530.064(1)(a), or KRS Chapter 531.

(2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or *individual believed to be a minor*[~~peace officer~~].

(3) *The solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person's intent to commit the offense even if:*

(a) The meeting did not occur, or

(b) The person did not intend for the meeting to occur.

(4) It is a defense to prosecution under this section that at the time the conduct in subsection (1) of this section was committed:

(a) The defendant was married to the minor; or

(b) The defendant was not more than three (3) years older than the minor and the minor consented to the conduct.

(5) A violation of this section is punishable as*:*

(a) A Class D felony *if the minor involved is less than eighteen (18) years old or the defendant believed that individual to be less than eighteen (18) years old at the time of the offense; and*

(b) A Class C felony if the minor involved is less than twelve (12) years old or the defendant believed that individual to be less than twelve (12) years old at the time of the offense.

(6) If the person misrepresents his or her age to the minor, or individual believed to be a minor, for the purpose of using an electronic communications device or electronic communication, as defined in Section 1 of this Act, to engage in, attempt to engage in, or facilitate for another person sexual conduct by a minor, as defined in Section 7 of this Act, the person shall be sentenced to the next higher degree penalty than for the offense for which convicted.

(7) Upon conviction under this section, any personal property of the defendant used in the commission or furtherance of the offense shall be forfeited in accordance with KRS 500.090.

(8) This section shall apply to electronic communications originating within or received within the Commonwealth.

Section 7. KRS 531.300 is amended to read as follows:

(1) As used in KRS 531.080 and 531.310 to 531.370:

(a)[~~(1)~~] "Distribute" means to transfer possession of, whether with or without consideration;

(b)[~~(2)~~] "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials;

(c)[~~(3)~~]"Obscene" means the predominate appeal of the matter taken as a whole is to a prurient interest in sexual conduct involving minors;

(d)[~~(4)~~] "Sexual conduct by a minor" means:

1.[~~(a)~~] Acts of masturbation, homosexuality, lesbianism, beastiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;

2.[~~(b)~~] Physical contact with, or willful or intentional exhibition of the genitals*, exclusive of exhibition portrayed in matter of a private, family nature not intended for distribution outside of the family*;

3.[~~(c)~~] Flagellation or excretion for the purpose of sexual stimulation or gratification; or

4.[~~(d)~~] The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family;

(e)[~~(5)~~]"Performance" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience;

(f)[~~(6)~~] "Sexual performance" means any performance or part thereof which includes sexual conduct by a minor; and

(g)[~~(7)~~] "Promote" means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

(2) This section does not apply to any matter, sexual conduct by a minor, performance, or sexual performance if:

(a) The matter, sexual conduct by a minor, performance, or sexual performance is possessed, distributed, sent, or caused to be sent into this state for sale or distribution, or promoted or presented for a bona fide medical, scientific, educational, governmental, or other similar justification; and

(b) The minor's parent, guardian, or a person in a position of authority or special trust, as defined in KRS 532.045, consents in writing to the photographing or use of the minor in a state of nudity and to the manner in which the matter, sexual conduct by a minor, performance, or sexual performance is used or transferred.

Section 8. KRS 531.320 is amended to read as follows:

(1) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.

(2) Promoting a sexual performance by a minor is:

(a) A Class C felony if the minor involved in the sexual performance is less than eighteen (18) years old at the time the minor engages in the prohibited activity;

(b) A Class B felony if the minor involved in the sexual performance is less than sixteen (16) years old at the time the minor engages in the prohibited activity***, or the offender holds a position of authority over the minor as defined in KRS 532.045***; and

(c) A Class A felony if the minor involved in the sexual performance incurs physical injury thereby.

Section 9. KRS 531.340 is amended to read as follows:

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he or she:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he or she:

1. Exhibits for profit or gain; or
2. Distributes; or
3. Offers to distribute; or
4. Has in his or her possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his or her possession more than one (1) unit of material coming within the provision of KRS 531.300***(1)(b)***[~~(2)~~] shall be rebuttably presumed to have such material in his or her possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

The Committee Substitute to **HB 438** is as follows:

HB 438, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.155 is amended to read as follows:

(1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or ***any individual the person has reason to believe is a minor, or*** a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, ***510.110,*** 529.030, or 530.064(1)(a), or KRS Chapter 531.

(2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a

single course of conduct intended to consummate in the commission of the same offense with the same minor or ***individual the person had reason to believe to be a minor or*** peace officer.

(3) ***The solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person's intent to commit the offense even if:***

(a) The meeting did not occur; or

(b) The person did not intend for the meeting to occur.

(4) It is a defense to a prosecution under this section that at the time the conduct in subsection (1) of this section was committed the defendant was married to the minor.

(5) A violation of this section is punishable as a Class D felony.

(6) This section shall apply to electronic communications originating within or received within the Commonwealth.

HCR 159, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Judiciary to study how school districts can most effectively conduct criminal background checks on certified and classified employees, student teachers, and school volunteers.

WHEREAS, it is Kentucky's goal for all children to be safe and secure at school and while being transported to and from school; and

WHEREAS, a complete criminal background check of school district employees and volunteers is needed before they interact with Kentucky's school children; and

WHEREAS, information is needed from the Kentucky State Police, Administrative Office of the Courts, and other cabinets of state government to develop a complete criminal background check of school district employees; and

WHEREAS, appropriate resources must be allocated to provide the staff necessary in these agencies to provide school districts with timely and accurate information; and

WHEREAS, collaboration among these agencies and local school districts is necessary to ensure the safety of our children;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Judiciary is directed to study how school districts can most effectively conduct criminal background checks on certified and classified employees, student teachers, and school volunteers.

Section 2. A study group to consult with committee staff shall be established with representatives from:

(1) The Kentucky Department of Education;

(2) The Education Professional Standards Board;

(3) The Kentucky School Boards Association;

(4) The Kentucky Education Association;

(5) The Kentucky Association of School Superintendents;

(6) The Kentucky Administrative Office of the Courts;

(7) The Kentucky State Police;

(8) The Kentucky Transportation Cabinet;

(9) The Kentucky Cabinet for Families and Children; and

(10) Others identified by committee staff.

Section 3. The study shall be completed by November 1, 2007, with a written report, including findings and recommendations, presented to the Interim Joint Committee on Judiciary and the Interim Joint Committee on Education by December 15, 2007.

Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 65, AN ACT relating to sex offender registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

(1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory

Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;

(2) "Cabinet" means the Justice Cabinet;

(3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:

1. Kidnapping, as set forth in KRS 509.040, except by a parent;
2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
3. Sex crime;
4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
8. Unlawful transaction with a minor in the first degree as set forth in KRS 530.064(1)(a);
9. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
10. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
11. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph;

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;

(4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;

(5) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or
2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under KRS 17.510; or

(c) Any sexually violent predator; or

(d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;

(6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, ***electronic mail address and any instant messaging, chat, or other Internet communication name identities,*** a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;

(7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;

(8) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;

(9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;

(10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;

(11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554; and

(12) "Victim" has the same meaning as in KRS 421.500.

SJR 48, A JOINT RESOLUTION relating to the Kentucky All Schedule Prescription Electronic Reporting program.

WHEREAS, the Kentucky All Schedule Prescription Electronic Reporting program (KASPER) is proving to be an increasingly effective tool in combating the problem of prescription drug abuse in the Commonwealth; and

WHEREAS, the effectiveness of KASPER greatly depends on the ability of the system to capture information in regard to controlled substance prescriptive activity and this effectiveness can be defeated by obtaining prescriptions from medical practitioners in adjoining states; and

WHEREAS, the General Assembly, recognizing this weakness, has specifically authorized the secretary of the Cabinet for Health and Family Services to enter into reciprocal agreements with any other state or states of the United States to share prescription drug monitoring information if the other state's prescription drug monitoring program is compatible with the program in Kentucky; and

WHEREAS, the KASPER program has made significant strides in reducing the time lag experienced by users in retrieving information from the system but room yet remains for improvement, including the possibility of real-time access for medical and pharmaceutical practitioners;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health and Family Services shall actively and immediately exercise the authority delegated to the secretary of that cabinet in 2004 to enter into reciprocal agreements with other states relative to the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system.

Section 2. The Cabinet for Health and Family Services shall actively and immediately identify and resolve the personnel, hardware, software, and regulatory steps needed to achieve the goal of allowing KASPER system users real-time access to the system and its capabilities.

Section 3. The secretary of the Cabinet for Health and Family Services shall prepare and tender to the Legislative Research Commission by November 1, 2007, a report detailing the actions of the secretary and the cabinet taken in accordance with this Joint Resolution.

Section 4. The Clerk of the House of Representatives of the Kentucky General Assembly is directed to deliver a copy of this Joint Resolution to the secretary of the Cabinet for Health and Family Services.

The Committee on Labor and Industry reported **HB 246, HB 296,** and **SB 10** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 246, AN ACT relating to deceptive business practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A person may not misrepresent the geographical location of a business that derives fifty percent (50%) or more of its gross income from the sale or arranging for the sale of flowers or floral arrangements in the listing of the business in a telephone directory or other directory assistance database.

(2) A person is considered to misrepresent the geographical location of a business in a telephone directory or other directory assistance database if the name of the business indicates that the business is located in a geographical area, and:

(a) The business is not located within the geographical area indicated;

(b) The listing fails to identify the municipality and state of the business's geographical location; and

(c) A telephone call to the local telephone number listed in the telephone directory or directory assistance database routinely is forwarded or transferred to a location that is outside the calling area covered by the telephone directory or directory assistance database in which the number is listed.

(3) A person may place a directory listing for a business described in subsection (1) of this section whose name indicates that it is located in a geographical area that is different from the geographical area in which the business is actually located, only if a conspicuous notice in the listing states the municipality and state in which the business is located.

(4) This section does not apply to a publisher of a telephone directory or other publication or a provider of a directory assistance service publishing or providing information about another business.

(5) This section creates no duty and imposes no obligation upon anyone other than the business that is the subject of the advertisement or listing.

(6) This section applies only to information supplied to a telephone directory published after the effective date of this Act or to information supplied for entry into a directory assistance database after the effective date of this Act.

Section 2. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay

to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding

requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year knowingly and willfully violates KRS 367.46955(15)(a) by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of Consumer Protection.

(24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list identified in KRS 367.46955(15) for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

(25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars ($5,000) for each offense.

(b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.

(c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.

(d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

(26) Any person who violates Section 1 of this Act shall be liable for a penalty of two thousand five hundred dollars ($2,500) per violation. Either the Attorney General or the appropriate Commonwealth's attorney may prosecute violations of Section 1 of this Act.

HB 296, AN ACT relating to workers' compensation self-insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.340 is amended to read as follows:

(1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some corporation, association, or organization authorized to transact the business of workers' compensation insurance in this state or shall furnish to the executive director satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case, the executive director shall require the deposit of an acceptable security, indemnity, or bond to secure, to the extent the executive director directs, the payment of compensation liabilities as they are incurred. ***A public sector self-insured employer shall not be required to deposit funds as security, indemnity, or bond to secure the payment of liabilities under this chapter, if the public employer has authority to raise taxes, notwithstanding provisions of KRS 68.245, 132.023, 132.027, and 160.470 relating to recall and reconsideration of local taxes; raise tuition; issue bonds; raise fees or fares for services provided; or has other authority to generate funds for its operation.***

(2) Every employer subject to this chapter shall file, or have filed on its behalf, with the office, as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. Any insurance carrier or self-insured group providing workers' compensation insurance coverage for a Kentucky location shall file on behalf of the employer, with the executive director, evidence of the employer's compliance with this chapter. The filing shall be made within ten (10) days after the issuance of a policy, endorsement to a policy, or similar documentation of coverage. Every

employer who has complied with the foregoing provision and has subsequently canceled its insurance or its membership in an approved self-insured group, as the case may be, shall immediately notify, or have notice given on its behalf to the office of the cancellation, the date thereof, and the reasons therefor; and every insurance carrier or self-insured group shall in like manner notify the executive director upon the cancellation, lapse, termination, expiration by reason of termination of policy period, or nonrenewal of any policy issued by it or termination of any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or self-insured group need not set forth its reasons therefor unless requested by the executive director. The above filings are to be made on the forms prescribed by the executive director. Termination of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of the notification by the executive director unless the employer has obtained other insurance and the executive director is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions, the executive director shall promptly notify interested government agencies of this failure and, with particular reference to employers engaged in coal mining, the executive director shall promptly report any failures to the Department for Natural Resources so that appropriate action may be undertaken pursuant to KRS 351.175.

SB 10, AN ACT relating to heating, ventilation, and air conditioning and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 198B.030 to the contrary, any person who installs an initial heating, ventilation, or air conditioning system shall apply for a permit prior to beginning the installation. No installation shall begin before the application for the permit has been filed. In no event, however, shall a person exempt under KRS 198B.674 be required to possess or show proof of a heating, ventilation, or air conditioning license in order to obtain the permit required by this section.

(2) The applicant for a heating, ventilation, and air conditioning permit, by the act of applying for the permit, shall be deemed to consent to inspection of the installation by authorized inspectors of the Commonwealth of Kentucky and of the relevant city, county, urban-county, charter county, unified local government, or consolidated local government.

(3) The permit shall give:

(a) The name of the person performing the work;

(b) The full extent of the work to be performed;

(c) The name of the owner or owners of the property where the work is to be performed;

(d) The location of the property where the work is to be performed, including county and street address; and

(e) The master license number, if the work is required to be performed by a master heating, ventilation, and air conditioning contractor.

(4) No permit shall be required for any installation performed on a manufactured home as defined by KRS 227.550(7), by a manufactured home retailer licensed pursuant to KRS 227.610, or by a manufacturer as defined by KRS 227.550(9).

(5) No permit or inspection shall be required for the installation of window unit air conditioners or space heaters.

(6) No permit or inspection shall be required for the installation of a heating, ventilation, or air conditioning system except in buildings designed for human occupancy.

SECTION 2. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) No person, firm, or corporation shall use, continue to use, or permit the use of any heating, ventilation, or air conditioning system that an authorized inspector or the inspector's employee or agent determines was not installed in accordance with the Uniform State Building Code, the Uniform State Residential Code, and the referenced standards contained in the respective codes.

(2) If a permit is required by Section 1 of this Act for the installation of a heating, ventilation, or air conditioning system, no firm, person, or corporation shall use, continue to use, or permit the use of the heating, ventilation, or air conditioning system unless the permit has been obtained or applied for.

(3) Any inspection required by Section 1 of this Act shall be scheduled with the property owner or owners or their agent or agents at least one (1) business day in advance and shall be completed within three (3) business days of the scheduled inspection.

SECTION 3. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations to establish a reasonable schedule of fees to implement the program. The fees shall not exceed the actual costs for the administration of the program. The board shall also establish heating, ventilation, and air conditioning inspection protocols that ensure timely inspections and minimal interruption to the construction process.

(2) The office, with the approval of the board, upon the request of any individual local governing entity or combination of entities with existing heating, ventilation, and air conditioning permitting and inspection programs as of January 1,

2007, shall authorize them to administer, carry out, and enforce the rules and regulations of the office relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of these functions. Nothing in Sections 1 to 8 of this Act shall prohibit these entities from continuing to include major repairs or substantial alterations to a heating, ventilation, or air conditioning system within their permitting and inspection program in the absence of a state requirement, if major repairs or substantial alterations were included in the entities' inspection program prior to January 1, 2007. The office, with the approval of the board, may authorize any other individual local government entities or combination of entities to administer, carry out, and enforce the rules and regulations of the office relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of those functions. When authorization is granted, the office shall enter into contractual arrangements with the local governing entities, which shall remain in effect as long as the local entity continues to operate its program pursuant to guidelines adopted by the board. A heating, ventilation, and air conditioning permit issued by an authorized local governing entity shall be considered a permit issued by the office, and all fees collected by the authorized local government related to the same shall be retained by that local government.

(3) Any local governing entity enforcing the permitting and inspection requirements of KRS 198B.650 to 198B.689 pursuant to subsection (2) of this section may appoint and fix the compensation of the local governing entity's heating, ventilation, and air conditioning inspectors. No person shall perform the duties of a heating, ventilation, and air conditioning inspector unless he or she has at least six (6) years' experience as a licensed heating, ventilation, and air conditioning journeyman mechanic or a licensed master heating, ventilation, and air conditioning contractor, unless he or she is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of employment the heating, ventilation, and air conditioning inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689.

(4) No local governing entity may impose any other additional heating, ventilation, and air conditioning inspection or permit requirements, or establish any local inspection or permitting program, unless those provisions were in place before January 1, 2007.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

All fees and fines collected and paid into the State Treasury shall be credited to a revolving trust and agency account and shall be used only for the administration and enforcement of KRS 198B.650 to 198B.689 and the repayment of moneys borrowed from surplus trust and agency accounts of the office. The moneys in the account are hereby appropriated by the General Assembly for the purposes set forth in KRS 198B.650 to 198B.689, and shall not lapse at the close of the fiscal year.

SECTION 5. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of enforcing the provisions of KRS 198B.650 to 198B.689, officers, agents, and inspectors of the office or an authorized local government shall have the power and authority to enter upon permitted premises at all reasonable times with the consent of the property owner in order to make inspections, interview all persons, and request proof of heating, ventilation, and air conditioning licenses, installation permits, and other evidence of compliance. Officers, agents, and inspectors of the office or an authorized local government shall have the authority to issue a stop-work order to any owner, agent, or occupant of real property whenever the heating, ventilation, and air conditioning system under inspection is found to be in violation of KRS 198B.650 to 198B.689 or the Uniform State Building Code's heating, ventilation, and air conditioning mechanical sections.

(2) Notwithstanding the existence or pursuit of any other civil or criminal penalties, the office and its officers, agents, and inspectors are authorized to institute and maintain actions to restrain and enjoin any violation of KRS 198B.650 to 198B.689, the Uniform State Building Code, the Uniform State Residential Code, or the rules or the administrative regulations of the office relating thereto.

(3) City and county attorneys, Commonwealth's attorneys, and the Attorney General may, within their respective jurisdictions, represent the office and its officers, agents, and inspectors in the enforcement of provisions of KRS 198B.650 to 198B.689, the Uniform State Residential Code, and the Uniform State Building Code.

SECTION 6. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court where a violation occurs shall have jurisdiction and venue in all civil and injunctive actions instituted by the office for the enforcement of the provisions of KRS 198B.650 to 198B.689 and orders issued thereunder.

(2) The District Court where a violation occurs shall have jurisdiction and venue in all criminal actions for the enforcement of the provisions of KRS 198B.650 to 198B.689, the Uniform State Building Code, the Uniform State Residential Code, and orders issued thereunder.

SECTION 7. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) If an installation for which a permit is required does not meet the requirements of the Uniform State Building Code or the Uniform State Residential Code, whichever is applicable, or if the property owner refuses to allow an inspection, the inspector shall refuse to approve the work covered by the permit. The office or authorized local government may prohibit the continued use of a heating, ventilation, and air conditioning system that an authorized inspector

determines was improperly installed or altered if continued use threatens human life or if the property owner refused to allow an inspection.

(2) An applicant aggrieved by an action of an inspector or the office may request a hearing in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The office shall appoint and assign heating, ventilation, and air conditioning inspectors to each county subject to the provisions of KRS 198B.650 to 198B.689 and in numbers sufficient to implement the provisions of KRS 198B.650 to 198B.689.

(2) No person shall be appointed as a heating, ventilation, and air conditioning inspector unless he or she has at least six (6) years' experience as a licensed heating ventilation, and air conditioning journeyman mechanic, or a licensed master heating, ventilation, and air conditioning contractor, unless he or she is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of his or her appointment the inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689.

Section 9. KRS 198B.650 is amended to read as follows:

As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

(1) "Air conditioning or cooling system" means a system in which heat is removed from air, surrounding surfaces, or both;

(2) "Apprentice heating, ventilation, and air conditioning mechanic" means an individual in the process of learning the heating, ventilation, and air conditioning trade who assists and is under the supervision of a master heating, ventilation, and air conditioning contractor and a journeyman heating, ventilation, and air conditioning mechanic;

(3) "Board" means the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors;

(4) "Burner service" means the servicing of oil or gas burners used for heating air or water for purposes other than the transmission of heat;

(5) "Certificate" means a document issued by the board to an apprentice heating, ventilation, and air conditioning mechanic to assist a master heating, ventilation, and air conditioning contractor or a journeyman heating, ventilation, or air conditioning mechanic;

(6) "Executive director" means the executive director of the Office of Housing, Buildings and Construction;

(7) "Office" means the Office of Housing, Buildings and Construction;

(8) "Heating system" means a system in which heat is transmitted by radiation, conduction, convection, or a combination of any of these methods to air, surrounding surfaces, or both. "Heating system" does not include fireplaces and free-standing stoves not incorporated into a primary heating system, electric thermal storage units, electric ceiling cable heating systems, or electric baseboard heating units;

(9) "Hydronic system" means a heating and cooling system using liquids to transmit or remove heat;

(10) ***"Initial heating, ventilation, or air conditioning system" means the first or original heating, ventilation, or air conditioning system installed in a building;***

(11) "Journeyman heating, ventilation, and air conditioning mechanic" means an individual who is licensed by the board to perform heating, ventilation, and air conditioning work under the supervision, direction, and responsibility of a master heating, ventilation, and air conditioning contractor;

(12)[~~(11)~~] "Maintenance person or maintenance engineer" means a person who is a regular and bona fide full-time employee or agent of a property owner, property lessor, property management company, or firm, not in the heating, ventilating, and air conditioning business that has jurisdiction of property where the routine maintenance of heating, ventilating, and air conditioning is being performed, provided the maintenance shall not include replacement of heating, ventilation, or air conditioning systems;

(13) "Major repair" means the complete replacement of any of the following heating, ventilation, or air conditioning equipment:

(a) Furnaces;

(b) Condensing units;

(c) Heat pumps;

(d) Fan coil units;

(e) Chiller systems; or

(f) Heating boiler systems not covered by KRS Chapter 236;

(14)[~~(12)~~] Master heating, ventilation, and air conditioning contractor" means a heating, ventilation, and air conditioning contractor who is licensed by the board to advertise and practice heating, ventilation, and air conditioning contracting in this Commonwealth;

(15) "Permit" means a document issued by the office or its authorized agent allowing the installation of an original

heating, ventilation, or air conditioning system;

(16)[~~(13)~~] "Practice of heating, ventilation, and air conditioning contracting" means the installation, maintenance, altering, remodeling, or repair of heating systems, ventilation systems, hydronic systems, burner service, or cooling systems;

(17)[~~(14)~~] "Routine maintenance of heating, ventilation, or air conditioning" means the routine and periodic servicing of heating, ventilation, and air conditioning systems, including cleaning, inspection, and adjustments to insure the proper operation, and the removal and replacement of component parts. "Routine maintenance of heating, ventilation, or air conditioning" shall not include the installation of complete new heating, ventilation, or air conditioning systems; and

(18)[~~(15)~~] "Ventilation system" means a natural or mechanical system of supplying air to or removing air from any space.

Section 10. KRS 198B.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 198B.140, ***of Section 1 or 2 of this Act,*** or of the Uniform State Building Code, ***the Uniform State Residential Code,*** or any directive or order issued pursuant thereto***,*** shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000). Each day the violation continues shall constitute a separate offense.

(2) Any person who violates the provisions of KRS 198B.310 to 198B.330 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or be imprisoned for not more than one (1) year, or both.

(3) Any person who violates any provision of KRS 198B.410 to 198B.540, or regulation issued thereunder, shall be fined a sum of five hundred dollars ($500) for each offense.

Section 11. Funds for the initial administration of this Act, following July 1, 2008, and to the extent fee income is insufficient to meet actual costs as determined by the chief budget officer for the office, with the approval of the board, shall be borrowed from surplus trust and agency accounts of the office and repaid without interest over no more than the succeeding two (2) fiscal years.

Section 12. Sections 1, 3, 4, 6, 8, 9, 10, and 11 of this Act shall take effect July 1, 2008. Sections 2, 5, and 7 shall take effect January 1, 2009.

The Committee on Appropriations and Revenue reported **HB 327,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute to **HB 327** is as follows:

HB 327, AN ACT amending 2006 Kentucky Acts Chapter 252, relating to appropriations for the operations, maintenance, support, and functioning of the executive branch of government of the Commonwealth of Kentucky, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 5. Department of Veterans' Affairs, at pages 1144 and 1145, is amended to read as follows:

5. DEPARTMENT OF VETERANS' AFFAIRS

	2006-07	**2007-08**
General Fund	***17,519,000***	***16,669,700***
[~~General Fund~~	~~15,436,200~~	~~16,669,700~~]
Restricted Funds	24,713,700	24,905,700
TOTAL	***42,232,700***	***41,575,400***
[~~TOTAL~~	~~40,149,900~~	~~41,575,400~~]

(1) **Weekend and Holiday Premium Pay Incentive:** The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the 2006-2008 fiscal biennium.

(2) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

(3) **Military Burial Honor Guard Program:** Included in the above General Fund appropriation is an additional $35,000 in each fiscal year to support the Military Burial Honor Guard Program/Veterans' Service Organizational Burial Honor Guard Trust Fund for providing proper support and decorum for veterans' funeral honors. These funds shall not lapse nor be utilized for other than the intended purposes.

Pursuant to KRS 36.390, the Department of Military Affairs shall coordinate with the Department of Veterans' Affairs and the Board of Embalmers and Funeral Directors on the implementation of the Military Burial Honor Guard Program. The Board of Embalmers and Funeral Directors shall mail program notification letters to all licensed embalmers and funeral directors with information related to the program description and contacts for the Military Burial Honor Guard Program. These letters shall be mailed with the annual renewal notifications prior to July 1 each year. New applicants will receive their notification of the program at the time of licensing. The Board of Embalmers and Funeral Directors shall establish a section on the Board's Web site pertaining to the Military Burial Honor Guard Program. The Department of Military Affairs and the Department of Veterans' Affairs shall report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection prior to January 1, 2007, on the implementation of the Military Burial Honor Guard Program. The report shall include recommendations on organizational related matters, training and continuing education needs, equipment requirements for organizations performing or coordinating the honors ceremonies, and the expenditure of funds.

(4) **Debt Service:** Included in the above General Fund appropriation is $84,000 in fiscal year 2006-2007 and $168,000 in fiscal year 2007-2008 for debt service to support new bonds for the Western Kentucky Veterans' Center as set forth in Part II, Capital Projects Budget, of this Act.

(5) Operating Budget: Included in the above General Fund appropriation is $2,082,800 in fiscal year 2006-2007 to provide additional operating support.

Section 2. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 30. Teachers' Retirement System, at pages 1160 and 1161, is amended to read as follows:

30. TEACHERS' RETIREMENT SYSTEM

	2006-07	**2007-08**
General Fund	*182,326,100*	*183,323,100*
~~[General Fund~~	~~157,326,100~~	~~183,323,100]~~
Restricted Funds	9,409,300	10,361,500
TOTAL	*191,735,400*	*193,684,600*
~~[TOTAL~~	~~166,735,400~~	~~193,684,600]~~

(1) **State Retirement Obligations:** Notwithstanding KRS 161.550, General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

(2) **Administrative Costs:** In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2006-2007 or fiscal year 2007-2008 for the cost of administration.

(3) **Amortization of Sick Leave:** Included in the above General Fund appropriation is $4,293,800 in fiscal year 2006-2007 and $9,211,000 in fiscal year 2007-2008 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2006-2008 fiscal biennium.

(4) **Cost-of-Living Increase for Retirees:** Included in the above General Fund appropriation is $4,312,800 in fiscal year 2006-2007 and $7,865,100 in fiscal year 2007-2008 to provide, when combined with the annual one and one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent in fiscal year 2006-2007 and an additional two and one-tenths in fiscal year 2007-2008.

(5) **Supplemental Health Insurance Funding:** Notwithstanding KRS 161.675(4)(a) included in the above General Fund appropriation is $50,000 in each fiscal year to enable the retirement system to provide a subsidy from July 1, 2006, through December 31, 2007, for those retired state members over age 65 that insure their spouses under age 65 through the state health insurance plan. The amount of the subsidy for those over age 65 shall not exceed the amount of the subsidy for members under age 65 that choose couple, family, or parent plus coverage. The spousal subsidy is not subject to KRS 161.714.

(6) **State Medical Insurance Fund Stabilization Contribution:** Notwithstanding KRS 161.420 and 161.550, a portion of the state employer contribution in a sufficient amount shall be allocated to the Teachers' Retirement System Medical Insurance Fund instead of the State Accumulation Fund. Also included in the above General Fund appropriation is $14,133,200 in fiscal year 2007-2008 to amortize the cost of the State Medical Insurance Fund Stabilization Contribution with the remainder to be amortized under the schedule set forth in KRS 161.553.

(7) **Dependent Subsidy for Retirees under age 65:** Notwithstanding KRS 161.675(4)(a), from July 1, 2006, through December 31, 2007, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System shall pay the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. The dependent subsidy is not subject to KRS 161.714.

(8) **Ad Hoc State Contribution:** Included in the above General Fund appropriation is $12,974,100 in fiscal year 2006-2007 and $29,444,100 in fiscal year 2007-2008 for an ad hoc contribution to the State Accumulation Fund.

(9) **Highly Skilled Educators' Retirement Benefits:** Salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

(10) Additional Contribution to the Medical Insurance Fund: Included in the above General Fund appropriation is $25,000,000 in fiscal year 2006-2007 for the Teachers' Retirement System Medical Insurance Fund.

Section 3. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; B. Commerce Cabinet; 5. Parks, at pages 1163 and 1164, is amended to read as follows:

5. PARKS

	2006-07	2007-08
General Fund	27,978,400	31,145,400
Restricted Funds	55,217,700	56,335,600
TOTAL	83,196,100	87,481,000

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

[~~(3) Nicholas Hildreth School: Included in the above Restricted Funds appropriation is $60,000 in fiscal year 2006-2007 to move the Nicholas Hildreth School to Blue Licks Battlefield State Park.~~]

(5) Kentucky State Parks Foundation: The Department of Parks is hereby authorized to transfer the sum of $521,728 of private funds to the Kentucky State Parks Foundation.

Section 4. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; G. Finance and Administration Cabinet; 1. General Administration, at page 1183, is amended to read as follows:

1. GENERAL ADMINISTRATION

	2006-07	2007-08
General Fund	10,281,500	10,442,600
Restricted Funds	34,891,600	34,756,000
Road Fund	400,000	400,000
TOTAL	45,573,100	45,598,600

(1) **Affordable Housing Trust Fund:** Included in the above Restricted Funds appropriation is $4,300,000 in fiscal year 2006-2007 and $4,300,000 in fiscal year 2007-2008 for the Affordable Housing Trust Fund. The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to the Affordable Housing Trust Fund $500,000 in fiscal year 2006-2007 and $500,000 in fiscal year 2007-2008.

(2) **Trooper Island, Inc.:** The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to Trooper Island, Inc., $250,000 in fiscal year 2006-2007 and $250,000 in fiscal year 2007-2008.

(3) **Gubernatorial Transition:** Funds that are necessary to meet the Commonwealth's obligations for gubernatorial transition, up to but not to exceed $220,000 in fiscal year 2007-2008, shall be deemed a necessary government expense, and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(4) State Capitol Annex: The Secretary of the Finance and Administration Cabinet shall ensure that the New State Capitol Annex space allocated to the legislative branch by KRS 56.463(4)(b), and designated for occupancy by the October 1, 2003, Resolution of the Legislative Research Commission adopted pursuant to KRS 56.463(4)(b) and as specified in this section, shall be vacated by the executive branch and available for immediate occupancy by the legislative branch as follows:

The legislative branch shall occupy the following additional space on the second, third, and fourth floors of the New State Capitol Annex:

Going west from the center (north/south) hallway on each floor, all space (approximately 4,096 square feet on each floor) south of the east/west hallway to and including the ninth pilaster, and going south from the center (north/south) hallway on each floor from the first to the third pilaster on the west side of the hallway, except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy by the legislative branch of the space described in this paragraph shall be effective on or before April 15, 2007; and

Going south from the center (north/south) hallway on each floor, all space (approximately 3,328 square feet on each floor) on the west side of the hallway beginning at the third pilaster at the north/south hallway to the south end of the building, except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy by the legislative branch of the space described in this paragraph shall be effective on or before April 15, 2008.

The Secretary of the Finance and Administration Cabinet shall be authorized to lease such additional space as may be necessary to comply with the provisions of this section.

Expenditures required by the implementation of this section by the executive branch shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), or, if the expenditures required to implement this section exceed the funds available in those accounts, notwithstanding KRS 45.770, the Finance and Administration Cabinet shall transfer sufficient funds in the Capital Construction and Equipment Purchase Contingency Account to a capital project account to be used for expenditures necessary to implement the requirements of this section. Prior to making a transfer, the Finance and Administration Cabinet shall present the proposed transfer to the Capital Projects and Bond Oversight Committee for review at least 14 days prior to a meeting of the committee as required by KRS 45.800. No portion of funds transferred for this purpose shall be used for capital improvements or any other purpose.

Any expenditure authorized by the Legislative Research Commission relating to implementation of KRS 56.463(4)(b) and funded by previous appropriations to the legislative branch shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(14), and 48.020.

If the Secretary of the Finance and Administration Cabinet fails or refuses to fully and timely comply with the requirements of this section, the Legislative Research Commission may petition the Franklin Circuit Court for a writ of mandamus to compel the Secretary's compliance.

(5) Nicholas Hildreth School: Included in the above appropriations are the funds necessary to move the Nicholas Hildreth School to the Nicholas County school grounds.

Section 5. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; H. Cabinet for Health and Family Services; 5. Public Health, at pages 1191 to 1193, is amended to read as follows:

5. PUBLIC HEALTH

	2006-07	**2007-08**
General Fund (Tobacco)	14,000,900	14,721,100
General Fund	*73,812,100*	*76,735,300*
[~~General Fund~~	~~70,899,700~~	~~73,823,000~~]
Restricted Funds	71,482,700	71,599,000
Federal Funds	169,426,000	169,878,400
TOTAL	*328,721,700*	*332,933,800*
[~~TOTAL~~	~~325,809,300~~	~~330,021,500~~]

(1) **Health Kentucky:** Included in the above General Fund appropriation is $150,000 in fiscal year 2006-2007 for Health Kentucky, Inc.

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $7,149,800 in fiscal year 2006-2007 and $7,599,900 in fiscal year 2007-2008 for the Health Access Nurturing Development Services Program; $1,000,000 in fiscal year 2006-2007 and $1,140,100 in fiscal year 2007-2008 for Healthy Start initiatives; $1,750,000 in each fiscal year for Universal Children's Immunizations; $400,000 in each fiscal year for the Folic Acid Program; $775,000 in each fiscal year for Early Childhood Mental Health; $210,500 in each fiscal year for Early Childhood Oral Health; $2, 215,600 in fiscal year 2006-2007 and $2,345,600 in fiscal year 2007-2008 for the Smoking Cessation Program; and $500,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program.

(3) **Governor's Council on Wellness and Physical Activity:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2006-2007 and $1,500,000 in fiscal year 2007-2008 for the Governor's Council on Wellness and Physical Activity to develop and implement a statewide fitness program available to all Kentuckians that promotes fitness and wellness for persons of all ages and fitness levels.

(4) **Local and District Health Department Payments:** The Department for Public Health shall not impose a cap or other restriction on the number or amount of services that a Local or District Health Department may provide. The Department for Public Health shall submit all requests for payment for services provided to the Department for Medicaid Services that are submitted by a Local or District Health Department.

(5) **Medicaid State Match for Preventive Services Through Local and District Health Departments:** Included in the Medicaid Benefits appropriation is the total General Fund state matching dollars required in each fiscal year to fully support preventive health services provided to Medicaid recipients through Local and District Health Departments.

(6) **Health Insurance for Local and District Health Departments:** Included in the above General Fund appropriation is $6,174,000 each fiscal year to assist the Local and District Health Departments with the required increased employer contribution for employee health insurance. These funds shall be distributed to the Local and District Health Departments at least quarterly.

(7) **Diabetes Services:** Included in the above General Fund appropriation is $2,300,000 in fiscal 2006-2007 and $3,050,000 in fiscal year 2007-2008 for continuation of base services through Local or District Health Departments.

(8) **Diabetes Research Board:** Included in the above General Fund appropriation is $200,000 in each fiscal year, which shall be allocated to the Diabetes Research Board.

(9) **Diabetes Centers of Excellence:** Included in the above General Fund appropriation is $750,000 each fiscal year to establish three regional Diabetes Centers of Excellence. Services within the Centers will be based on the number of Medicaid recipients diagnosed with diabetes within the area. These centers shall be designed to provide education, intervention therapy, and case management services and shall demonstrate the effectiveness of this intervention with outcomes and reduced Medicaid expenditures for this disease.

(10) **Local and District Health Department Infrastructure Pool:** Included in the above General Fund appropriation is $466,000 in fiscal year 2007-2008 to provide debt service to support $10,000,000 in bonds for a Local and District Health Department Infrastructure Pool to be administered by the Department for Public Health to address a portion of the construction and renovation needs of the local public health agencies as set forth in Part II, Capital Projects Budget, of this Act. The

Department for Public Health shall establish an application process to participate in this pool, and that process shall require in-kind or matching funds from the local agency of not less than 25 percent of the grant requested. No individual grant from this pool shall exceed $500,000. If the amount of bond funds available from the pool is not sufficient to cover all applications, the department shall determine the distribution of pool assets.

(11) Kentucky Prescription Drug Patient Assistance Program: Included in the above General Fund appropriation is $125,000 in fiscal year 2006-2007 and $200,000 in fiscal year 2007-2008 to establish the Kentucky Prescription Drug Patient Assistance Program to create a statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies and to provide assistance in obtaining and completing the required documents. The Department may contract with the University of Kentucky, local health departments, or other organizations to develop a network and provide this assistance.

(a) As used in this subsection, "prescription drug patient assistance programs" means the programs offered by pharmaceutical companies under which the companies provide drugs to low-income individuals at no charge or at a substantially reduced cost. The term does not include the provision of a drug as part of a clinical trial.

(b) The Kentucky Prescription Drug Patient Assistance Program is established within the Cabinet for Health and Family Services, Department for Public Health. The purposes of the program are to:

1. Create an Internet-based statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies;

2. Provide assistance in obtaining and completing the required documents;

3. Establish guidelines related to the security and privacy of protected health information provided through the Internet-based statewide network; and

4. Explore the feasibility of the standardization of the application process for prescription drug patient assistance programs.

(c) If funds are available, the program created in paragraph (b) of this subsection shall:

1. Provide information on the eligibility guidelines and drug coverage provided though any drug assistance program offered by the cabinet;

2. Provide information on the process for applying to pharmaceutical companies for free or discounted prescription drugs;

3. Provide information to individuals, physicians, pharmacists, and pharmacies regarding eligibility for prescription drug patient assistance programs;

4. Increase awareness of the various prescription drug patient assistance programs offered by pharmaceutical companies;

5. Establish an Internet-based statewide network to provide information on prescription drug patient assistance programs;

6. Link individuals to local community resources to assist with completing required documents; and

7. Use the e-health network Web site to provide a link to information on prescription drug assistance programs, eligibility guidelines, and applications. The e-health network link shall have the capability of supporting the completion and transmission of the applications online to health care providers for any required signatures.

(d) The cabinet may consult or contract with the University of Kentucky College of Pharmacy, University of Kentucky College of Agriculture Cooperative Extension, local health departments, libraries, the Kentucky Cancer Caucus, or other organizations to develop a network of agencies to assist individuals in accessing prescriptions through the prescription drug patient assistance programs.

(e) The cabinet may seek funding for the Internet-based statewide network created under paragraph (b) of this subsection from pharmaceutical companies or any other private entity. Any funding provided by a private entity shall be on a voluntary basis.

(f) The cabinet may promulgate an administrative regulation to establish guidelines related to the security and privacy of protected health information provided through the Internet-based statewide network created under paragraph (b) of this subsection.

(12) Area Health Education Centers: Included in the above General Fund appropriation is $1,500,000 in fiscal year 2006-2007 and $1,500,000 in fiscal year 2007-2008 to support the Area Health Education Centers. The Cabinet for Health and Family Services shall contract with the University of Louisville and the University of Kentucky to provide the required support and the amount of that contract shall be in addition to any other appropriations received by the universities and shall not become part of the universities' base budgets for purposes of the Council on Postsecondary Education funding formula.

(13) Central Kentucky Blood Center: Included in the above General Fund appropriation is $500,000 in fiscal year 2006-2007 to provide assistance toward the construction of new facilities and purchase of equipment related to blood collection and distribution.

(14) Kentucky AIDS Drug Assistance Program: Included in the above General Fund appropriation is $250,000 in each fiscal year for the Kentucky AIDS Drug Assistance Program (KADAP).

(15) **Poison Control Center:** Additional support of $150,000 is provided in the above General Fund appropriation in each fiscal year for the Poison Control Center.

(16) **Lead Poisoning and Screening Program:** Included in the above General Fund appropriation is $50,000 in each fiscal year for the Lead Poisoning and Screening Program. With these funds, the Department for Public Health shall review all federal Medicaid or Medicare compliance issues with respect to lead poisoning and screening and report its findings to the General Assembly. The report shall include a proposed plan of action to correct any deficiencies or areas where programs and services are offered or supported by the Cabinet and are not in compliance with federal requirements related to lead poisoning and screening.

(17) **Osteoporosis Prevention and Education Program:** Included in the above General Fund appropriation is $90,000 in each fiscal year to establish, promote, and maintain a statewide multigenerational osteoporosis prevention and education program.

(18) Pandemic Influenza Antiviral Drugs: Included in the above General Fund appropriation is $2,912,400 in fiscal year 2006-2007 and $2,912,300 in fiscal year 2007-2008 for the purchase of Pandemic Influenza antiviral drugs.

Section 6. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; J. Personnel Cabinet, at pages 1201 and 1202, is amended to read as follows:

1. GENERAL OPERATIONS

	2006-07	2007-08
General Fund	1,805,600	932,200
Restricted Funds	19,569,900	20,785,200
TOTAL	21,375,500	21,717,400

(1) **Flexible Benefit Account:** Notwithstanding KRS 18A.225(2)(g), any funds from the calendar year 2005 and calendar year 2006 public employee health insurance program accruing to the Flexible Benefit Account, not otherwise appropriated in fiscal year 2006-2007 and in fiscal year 2007-2008, and in excess of the amount reflected in Part V, Funds Transfer, of this Act shall be credited to the General Fund Surplus Account.

(2) **Public Employees Self-Insured Health Insurance Premiums:** Beginning with the employer premium due for coverage effective July 1, 2006, under the Public Employees Self-Insured Health Insurance Program, the employer rate shall be reduced by 12 percent for the balance of Plan Year 2006. For Plan Year 2007, the increase in employer and employee premiums for coverage under the Public Employees Self-Insured Health Insurance Program shall not exceed 10.4 percent for the Essential Plan and 9 percent for the Enhanced and Premier Plan over the Plan Year 2006 rates as adjusted by this Act.

2. PUBLIC EMPLOYEES DEFERRED COMPENSATION AUTHORITY

	2006-07	2007-08
Restricted Funds	6,009,200	6,172,400

3. WORKERS' COMPENSATION BENEFITS AND RESERVE

	2006-07	2007-08
Restricted Funds	24,798,500	26,204,400

4. STATE SALARY AND COMPENSATION FUND

	2006-07	2007-08
General Fund	8,000,000	24,000,000

(1) **Employee Compensation:** The above General Fund appropriation provides a pool of funds to be allocated in accordance with the procedures contained in Part IV, State Salary/Compensation and Employment Policy, of this Act. Included in the above $8,000,000 General Fund appropriation in fiscal year 2006-2007 is $3,842,500 which shall not be allocated, transferred, or expended and shall continue into fiscal year 2007-2008 and shall only be expended in that fiscal year for this same purpose.

5. STATE GROUP HEALTH INSURANCE FUND

	2006-07	2007-08
General Fund	2,476,000	2,476,000

(1) **Group Health Insurance:** The above General Fund appropriation is provided to support a dependent subsidy for full-time employees of quasi-governmental employers, excluding state agencies, participating in the State Group Health Insurance program. To participate in this fund, each quasi-governmental employer must certify to the Secretary of the Personnel Cabinet that no funds received from the pool are being utilized to fund any benefits for persons other than full-time employees.

6. RETIREMENT CONTRIBUTION SUPPLEMENT POOL

	2006-07	*2007-08*
General Fund	*23,969,100*	*-0-*

(1) Retirement Contribution Supplement Pool: The Retirement Contribution Supplement Pool is hereby created in

the Personnel Cabinet. The above General Fund appropriation for this pool shall be utilized to supplement existing state agency budgets to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007, as set forth in Part IV, State Salary/Compensation and Employment Policy, of this Act. The Retirement Contribution Supplement Pool shall be supplemented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007. Included in this appropriation is $826,200 for state agencies with employees covered by the State Police Retirement System. Included in this appropriation is $2,402,400 for state agencies with hazardous duty employees covered by the Kentucky Employees Retirement Systems. Included in this appropriation is $2,422,800 for local and district health departments, $3,858,600 for regional MH/MR boards, and $1,989,400 for the Council on Postsecondary Education with nonhazardous duty employees covered by the Kentucky Employees Retirement Systems. The balance of this appropriation shall be allocated to state agencies with nonhazardous duty employees covered by the Kentucky Employees Retirement Systems.

The State Budget Director shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund moneys from the Retirement Contribution Supplement Pool to transfer to each affected budget unit and such funds shall be transferred. Funds allocated to the local and district health departments and the regional MH/MR boards shall be transferred from the Personnel Cabinet directly to those individual entities, no later than May 1, 2007, based on their shares of the increased cost incurred as a result of the implementation of the employer retirement contribution rates from April 1, 2007, through June 30, 2007. The State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue on the implementation of the employer retirement contribution rates from April 1, 2007, through June 30, 2007, and the Retirement Contribution Supplement Pool.

Notwithstanding KRS 45.229, any balance remaining in the Retirement Contribution Supplement Pool at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be utilized solely for the purpose as directed by this Act.

Section 7. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 4. Highways, at pages 1210 to 1214, is amended to read as follows:

4. HIGHWAYS

	2005-06	**2006-07**	**2007-08**
Restricted Funds	-0-	361,842,500	72,686,700
Federal Funds	30,085,900	654,147,700	675,013,800
Road Fund	-0-	667,409,400	670,193,200
Highway Bonds	-0-	350,000,000	-0-
TOTAL	30,085,900	2,033,399,600	1,417,893,700

(1) **Debt Service:** Included in the above Federal Funds appropriation is $15,162,700 in fiscal year 2006-2007 and $15,126,700 in fiscal year 2007-2008 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) Bonds appropriated for this purpose in 2005 Ky. Acts, ch. 173, Part I, L., 4., (16) (HB 267).

(2) **New Grant Anticipation Revenue Vehicle (GARVEE) Debt Service:** Included in the above Federal Funds appropriation is $34,963,000 in fiscal year 2006-2007 and $34,963,000 in fiscal year 2007-2008 for GARVEE Bonds debt service payments relating to projects financed by $290,000,000 in GARVEE Bonds hereby authorized by the General Assembly to be issued in fiscal year 2006-2007 for payment of the GARVEE Bond road projects.

(3) **State Supported Construction Programs:** Included in the above Road Fund appropriation is $306,587,500 in fiscal year 2006-2007 and $300,213,300 in fiscal year 2007-2008 for the State Supported Construction Program.

(4) **State Resurfacing Program:** Included in the State Supported Construction Program is $80,402,200 in fiscal year 2006-2007 and $87,320,000 in fiscal year 2007-2008 from the Road Fund for the State Resurfacing Program.

(5) **Biennial Highway Construction Program:** Included in the State Supported Construction Program is $188,445,300 in fiscal year 2006-2007 and $175,153,200 in fiscal year 2007-2008 from the Road Fund for state construction projects in the fiscal biennium 2006-2008 Biennial Highway Construction Program. Included in the above Road Fund appropriation is $2,500,000 in fiscal year 2006-2007 and $2,500,000 in fiscal year 2007-2008 to support the Kentucky Pride Fund created in KRS 224.43-505.

(6) **Kentucky Pride Fund Program Report:** The Environmental and Public Protection Cabinet shall provide to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a program and financial status report of all expenditures related to the Kentucky Pride Fund. The status report shall be provided to the Interim Joint Committee on Transportation no later than October 1 of each year.

(7) **Highway Construction Contingency Account:** Included in the State Supported Construction Program is $37,740,000 in fiscal year 2006-2007 and $37,740,000 in fiscal year 2007-2008 for the Highway Construction Contingency Account. Included in the above Road Fund appropriation is $2,500,000 in fiscal year 2006-2007 and $2,500,000 in fiscal year 2007-2008 to support the Kentucky Pride Fund created in KRS 224.43-505.

(8) **2006-2008 Biennial Highway Construction Plan:** Projects in the enacted 2004-2006 Biennial Highway

Construction Plan are authorized to continue their current authorization into the 2006-2008 fiscal biennium.

(9) **Kentucky Transportation Center:** Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2006-2007 and $290,000 in fiscal year 2007-2008 for the Kentucky Transportation Center.

(10) **New Highway Equipment Purchases:** Notwithstanding KRS 48.710(3), Restricted Funds are appropriated in the amounts of $1,500,000 in fiscal year 2006-2007 and $1,500,000 in fiscal year 2007-2008 from the sale of surplus equipment to purchase new highway equipment.

(11) **State Match Provisions:** The Transportation Cabinet is authorized to utilize state construction moneys or Toll Credits to match federal highway moneys.

(12) **Excess Debt Service/Lease-Rental Appropriations:** Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the Transportation Cabinet office building shall be credited to the State Construction Account.

(13) **Federal Aid Highway Funds:** If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific money shall be used on the project identified; and (b) All other funds shall be used to ensure that projects in the fiscal biennium 2006-2008 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four-Year Preconstruction Program.

(14) **Demonstration Projects:** The Transportation Cabinet is authorized to select up to *fifteen*~~[ten]~~ design/build demonstration road related projects. Notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177, for procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176. The Secretary of the Transportation Cabinet shall determine the nature and scope of each design/build project.

(15) **Road Fund Cash Management:** The Secretary of the Transportation Cabinet is authorized to continue the Cash Management Plan to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2006-2008 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

(16) **Biennial Highway Construction Program:** In the event that federally funded projects contained in the enacted fiscal biennium 2006-2008 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional Federal Funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to ensure that the Commonwealth makes full use of all available Federal Funds.

(17) **Programmatic Adjustments:** The Secretary of the Transportation Cabinet is authorized to adjust the specific sums comprising the Highways appropriation programs enumerated above for the purposes of enhancing public safety, maximizing available Federal Funds, supporting economic development, and accelerating state construction projects.

(18) **Grant Anticipation Revenue Vehicle (GARVEE) Bonds:** Included in the above Restricted Funds appropriation is $290,000,000 in fiscal year 2006-2007 for GARVEE Bond Funds.

(19) **Carry Forward of Appropriation Balances:** Notwithstanding KRS 45.229, unexpended Road Fund, Federal Funds, and Restricted Funds appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2005-2006 and fiscal year 2006-2007 shall not lapse and shall carry forward.

(20) **Road Fund Support for Aviation:** The Cabinet may utilize an amount not to exceed $10,000,000 of its annual Road Fund appropriations for the Department of Aviation, including but not limited to providing financial aid to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21), as identified in Part I, L.2., Aviation, of this Act.

(21) **Paving and Rehabilitation:** The Kentucky Transportation Cabinet is encouraged to provide grading and paving rehabilitation efforts on I-64 from Grayson to the West Virginia border at the level equal to that accomplished on I-64 in Bath County, Rowan County, and the remainder of Carter County.

(22) **Interlocal Agreement:** Any local government may be permitted to enter into a cooperative agreement with the Transportation Cabinet to maintain traffic control devices on state maintained roads within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the actual cost of such maintenance. The agreement may permit local governments to make temporary repairs to state maintained road surfaces within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the actual cost of the temporary repairs.

(23) **Rest Area Closure:** Notwithstanding KRS 177.240, the Transportation Cabinet may close the following five rest area sites:

(a) Hart County - One site located on I-65 southbound at milepost 55.1;

(b) Hardin County - Two sites located on I-65 northbound and southbound at milepost 81.0;

(c) Madison County - Two sites located on I-75 northbound and southbound at milepost 82.3.

(24) Pavement Management: The Secretary of the Transportation Cabinet may implement a Pavement Management Program to promote pavement preventive maintenance and maintain a higher level of pavement quality between resurfacing cycles. The Transportation Cabinet may expend an amount not to exceed $8,000,000 for this purpose for the 2006-2008 biennium.

(25) Miscellaneous Road Fund Projects: The Transportation Cabinet may undertake the following miscellaneous road projects, using the suggested Road Fund allocations contained therein:

(a) Campbell County Street Reconstruction: Reconstruct Chateau Drive in Dayton, Kentucky, for $100,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(b) Clark County Resurfacing: Resurface KY 15 from milepost 0 to 4.216 near Crow Ridge Road in Clark County for $280,000 from Road Fund resources in fiscal year 2006-2007;

(c) Fayette County Traffic Control Device: Add a left turn signal to both sides of the traffic control signal at the intersection of Russell Cave Road and Asbury Lane in Lexington, Fayette County, Kentucky before November 2006, to be paid from Road Fund resources;

(d) Fayette County Traffic Control Device: Install a traffic light at Helmsdale and Man-O-War for $20,000 from Road Fund resources in fiscal year 2006-2007;

(e) Fayette County Traffic Control Device: Install a traffic light at Todds Road and Autumn Ridge for $20,000 from Road Fund resources in fiscal year 2006-2007;

(f) Floyd County Traffic Control Device: Install a traffic control device on KY 80 at Duff Elementary School in Floyd County for $20,000 from Road Fund resources in fiscal year 2006-2007;

(g) Franklin County Tunnel Maintenance: Implement a tunnel clearance project adjacent to the Kentucky River for $500,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(h) Hopkins County Sidewalks: Construct sidewalks on US 41, South Main Street in the City of Madisonville for $390,000 from the Highway Construction Contingency Account in fiscal year 2007-2008;

(i) Jefferson County, Louisville Kennedy Bridge: complete the painting of the Kennedy Bridge on Interstate 65 in Louisville, Kentucky within the current biennium;

(j) Jefferson County Traffic Control Device: Install a traffic control device at the intersection of Rockford Lane and Dover Road in Jefferson County, Shively, Kentucky for $25,000 from Road Fund resources in fiscal year 2006-2007;

(k) Jefferson County Sound Barriers: installed on the north side of I-264/Watterson Expressway from the west side of the Newburg Interchange going west 1,500 feet;

(l) Jefferson County Bridge Preservation: Restore and reconstruct the historic bridge on Old Taylorsville Road over Chenoweth Run Creek, for $210,000 from the Municipal Bond Pool;

(m) Jessamine County Resurfacing: Resurface KY 1541 from milepost 6.936 near Sulphur Well Road to KY 39 at milepost 9.668 near Logana Road in Jessamine County for $136,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(n) Kenton County Traffic Control Device: Install a traffic control device at the intersection of Oak and Adella in the City of Ludlow for $20,000 from Road Fund resources in fiscal year 2006-2007;

(o) Menifee County Resurfacing: Resurface last 0.5 miles of Carrington Green Road at the Bath County line for $10,000 from Road Fund resources in fiscal year 2006-2007;

(p) Rowan County Street and Parking Improvements: Improve streets and parking in the City of Morehead for $150,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(q) Russell County Guardrail Installation: Install approximately 500 feet of guardrail on KY 1058 between mile marker 2 and 3 in Russell County, to be paid from Road Fund resources;

(r) Russell County Bridge Replacement: Replace the bridge on Payne Road in Russell County for $100,000 from Road Fund resources in fiscal year 2006-2007;

(s) Simpson County Resurfacing: Resurface Cedar Bluff Road in Simpson County beginning at US 31W to the Warren County line for $110,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(t) Simpson County Widening and Resurfacing: Widen and resurface Rapids-Hickory Flat Road in Simpson County for $143,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(u) Simpson County Widening and Resurfacing: Widen and resurface Neely Road in Simpson County for $137,000 from the Highway Construction Contingency Account in fiscal year 2006-2007; and

(v) Simpson County Highway Access: Create an access point on the south side of KY 100 at 300 feet east of the intersection with US 31W in Simpson County, to be paid from Road Fund resources.

(26) Louisville Bridges Project Plan Report: The Secretary of the Transportation Cabinet shall submit to the Legislative Research Commission by December 1, 2006, a long-term planning report for the Louisville Bridges Project. The planning report shall include project strategy, timeline, projected and actual financial data, construction schedule, total cost and cost to complete, anticipated revenues, revenue sources, and the overall financial impact on state transportation funds of the Louisville Bridges Project with respect to the federally funded component and the state-funded component, over the life of the project. The Transportation Cabinet shall also submit to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a copy of the Initial Financial Plan at the same time as it files the plan with the Federal Highway Administration, but in no event later than December 31, 2006.

(27) Safety Projects: The Kentucky Transportation Cabinet may spend an amount not to exceed $10,000,000 of Road Fund resources for safety related projects such as guard rails, pedestrian walkways, and sight distance improvements for the 2006-2008 biennium. The Kentucky Transportation Cabinet may spend an amount not to exceed $9,000,000 of Road Fund resources specifically for matching federal dollars associated with the runway 9-27 safety relocation at Bluegrass Field, Lexington, Kentucky for the 2006-2008 biennium.

Section 8. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects: K. Postsecondary Education; 6. Murray State University, at pages 1234 to 1235, is amended to read:

6. MURRAY STATE UNIVERSITY

001.	New Residential College - Richmond Hall			
	Agency Bonds	-0-	13,077,000	-0-
002.	Capital Renewal E&G Pool			
	Restricted Funds	-0-	12,457,000	-0-
003.	Administrative Enterprise Resource Planning System			
	Restricted Funds	-0-	8,000,000	-0-
004.	Capital Renewal H&D Pool			
	Restricted Funds	-0-	5,445,000	-0-
005.	Renovate Pogue Library			
	Restricted Funds	-0-	4,000,000	-0-
006.	Renovate Ordway Hall			
	Restricted Funds	-0-	3,962,000	-0-
007.	ADA Compliance E&G Pool			
	Restricted Funds	-0-	3,092,000	-0-
008.	Centralized Technology Refresh Program			
	Restricted Funds	-0-	2,600,000	-0-
009.	Telephone Switching System - Additional Reauthorization ($1,525,000 Restricted Funds)			
	Restricted Funds	-0-	1,975,000	-0-
010.	Renovate White Hall HVAC System			
	Restricted Funds	-0-	1,000,000	-0-
011.	Campus Backbone 10 GigE Upgrade			
	Restricted Funds	-0-	775,000	-0-
012.	Construct Open-Sided Stall Barn at Expo Center			
	Restricted Funds	-0-	770,000	-0-
013.	ADA Compliance H&D Pool			
	Restricted Funds	-0-	615,000	-0-
014.	Life Safety Projects E&G Pool			
	Restricted Funds	-0-	590,000	-0-
015.	Central Processing Computer System Upgrade			
	Restricted Funds	-0-	522,000	-0-
016.	Online Centralized Data Access/Warehouse			
	Restricted Funds	-0-	520,000	-0-
017.	Acquire Land			
	Restricted Funds	-0-	501,000	-0-

018.	Renovate A. Carman Pavilion - Phase II			
	Restricted Funds	-0-	500,000	-0-
019.	Renovate Wells Hall Interior			
	Restricted Funds	-0-	500,000	-0-
020.	Construct Public Safety Building- Additional Reauthorization ($1,500,000 Restricted Funds)			
	Restricted Funds	-0-	500,000	-0-
021.	Life Safety Projects H&D Pool			
	Restricted Funds	-0-	300,000	-0-
022.	Abate Asbestos H&D Pool			
	Restricted Funds	-0-	276,000	-0-
023.	Guaranteed Energy Savings Performance Contracts			
024.	Construct New Science Complex - Phase III			
	Bond Funds	-0-	15,000,000	-0-

(1) Purpose of Funds: Funds for construction of the New Science Complex - Phase III will be used for the chemistry building and the physics building.

Section 9. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 7. Northern Kentucky University, at pages 1235 to 1237, is amended to read as follows:

7. NORTHERN KENTUCKY UNIVERSITY

001.	Construct New Student Union			
	Agency Bonds	-0-	17,360,000	-0-
002.	Acquire New Residence Hall			
	Restricted Funds	-0-	10,000,000	-0-
003.	Construct Alumni Welcome Center			
	Other Funds	-0-	7,800,000	-0-
004.	Relocate Master Plan Infrastructure			
	Restricted Funds	-0-	6,130,000	-0-
005.	Acquire Land/Campus Master Plan			
	Restricted Funds	-0-	6,000,000	-0-
006.	Construct Track and Field Stadium			
	Other Funds	-0-	5,500,000	-0-
007.	Construct Soccer Stadium			
	Restricted Funds	-0-	5,500,000	-0-
008.	Major Item of Equipment Pool			
	Restricted Funds	-0-	5,410,000	-0-
009.	Construct Central Plaza Phase II			
	Restricted Funds	-0-	4,900,000	-0-
010.	Replace Power Distribution Infrastructure			
	Restricted Funds	-0-	4,800,000	-0-
011.	Repair Structural Floor Heaving/E&G Buildings			
	Restricted Funds	-0-	4,000,000	-0-
012.	Enhance Instructional Information Technology			
	Restricted Funds	-0-	3,800,000	-0-
013.	E&G Minor Projects Pool			
	Restricted Funds	-0-	3,200,000	-0-
014.	Enhance Information Technology Infrastructure			
	Restricted Funds	-0-	2,900,000	-0-
015.	Housing/Minor Projects Pool			
	Restricted Funds	-0-	2,200,000	-0-

016.	Replace Administrative Application System Phase II			
	Restricted Funds	-0-	2,000,000	-0-
017.	Construct Intramural Fields			
	Restricted Funds	-0-	1,900,000	-0-
018.	Replace E&G Fire Alarm Systems			
	Restricted Funds	-0-	1,400,000	-0-
019.	Relocate Early Childcare Center			
	Restricted Funds	-0-	1,000,000	-0-
020.	Replace Elevators Landrum Hall/Lucas Administrative Center			
	Restricted Funds	-0-	990,000	-0-
021.	Replace Air Handlers			
	Restricted Funds	-0-	980,000	-0-
022.	Restore Albright Health Center Roof			
	Restricted Funds	-0-	680,000	-0-
023.	Replace Business, Education, and Psychology Center Roof			
	Restricted Funds	-0-	680,000	-0-
024.	Enhance Softball Field			
	Restricted Funds	-0-	600,000	-0-
025.	Renovate University Center			
	Restricted Funds	-0-	600,000	-0-
026.	Kenton County - Lease			
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Center for Informatics			
	Bond Funds	-0-	35,500,000	-0-
029.	Construct Parking Garage #3			
	Agency Bonds	-0-	15,400,000	-0-
030.	***Acquire/Renovate Student Housing***			
	Agency Bonds	***-0-***	***23,500,000***	***-0-***

Section 10. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 8. University of Kentucky, at pages 1251 and 1252, is amended to read as follows:

	Restricted Funds	-0-	3,310,000	-0-
	TOTAL	-0-	4,310,000	-0-
256.	Renovate Memorial Coliseum			
	Other Funds	-0-	4,731,000	-0-
257.	Construct Commonwealth Stadium Suite Addition			
	Other Funds	-0-	2,300,000	-0-
258.	Construct New Alumni Center			
	Other Funds	-0-	17,344,000	-0-
259.	Gluck Equine Research Center – Phase II – Design			
	Other Funds	-0-	1,500,000	-0-
	Restricted Funds	-0-	2,000,000	-0-
	TOTAL	-0-	3,500,000	-0-
260.	KY Transportation Center Building – Phase I – Design			
	Other Funds	-0-	1,500,000	-0-
	Federal Funds	-0-	2,500,000	-0-
	TOTAL	-0-	4,000,000	-0-
261.	Expand Arboretum Visitor Center			
	Other Funds	-0-	2,870,000	-0-
262.	Biomedical Research Building – Design			

	Restricted Funds	-0-	7,600,000	-0-
263.	Renovate Student Center Food Court			
	Restricted Funds	-0-	1,643,000	-0-
264.	Renovate K-Lair Building			
	Restricted Funds	-0-	4,650,000	-0-
265.	Renovate SECAT Building at Coldstream			
	Restricted Funds	-0-	2,000,000	-0-
266.	Purchase Furniture and Equipment – Patient Care Facility			
	Restricted Funds	-0-	27,000,000	-0-
267.	*Upgrade Existing Residence Halls*			
	Agency Bonds	*-0-*	*7,013,000*	*-0-*
269.	Fayette County - Administrative - Office Lease			
270.	Fayette County - Health Affairs - Office Lease 2			
271.	Fayette County – Health Affairs - Office Lease 3			
272.	Fayette County - Health Affairs - Office Lease			
273.	Fayette County - Lease - Blazer Parkway			
274.	Fayette County - Lease - Med Center Contract			
275.	Fayette County - Lease - Med Center Off-Campus Facility			
276.	Fayette County - Lease - Med Center Grant Projects			
277.	Fayette County - Lease - Pharmacy Contracted Program			
278.	Fayette County - Lease - Med College Off - Campus Clinic			
279.	Fayette County - Lease - Kentucky Utilities Building			
280.	Guaranteed Energy Savings Performance Contracts			
287.	*Lease-Purchase Samaritan Clinical Facility*			
	Restricted Funds	*-0-*	*70,000,000*	*-0-*
288.	*Renovate Samaritan Clinical Facility*			
	Restricted Funds	*-0-*	*10,000,000*	*-0-*
289.	*Lease-Purchase IT System for the Samaritan Clinical Facility*			
	Restricted Funds	*-0-*	*10,000,000*	*-0-*

Section 11. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 9. University of Louisville, at pages 1252 to 1255, is amended to read as follows:

9. UNIVERSITY OF LOUISVILLE

001.	Construct HSC Research Facility Phase III - Additional			
	Bond Funds	-0-	69,680,000	-0-
	Agency Bonds	*-0-*	*15,800,000*	*-0-*
002.	Construct Center for Predictive Medicine			
	Federal Funds	-0-	22,200,000	-0-
	Agency Bonds	-0-	13,000,000	-0-
	TOTAL	-0-	35,200,000	-0-
003.	Renovate Ekstrom Library			
	Restricted Funds	-0-	22,081,000	-0-
004.	Capital Renewal Pool			
	Restricted Funds	-0-	22,000,000	-0-
005.	Major Item of Equipment Pool			
	Restricted Funds	-0-	100,000	1,700,000
	Federal Funds	-0-	7,501,000	3,290,000
	Other Funds	-0-	6,250,000	2,470,000
	TOTAL	-0-	13,851,000	7,460,000
006.	Expand & Renovate - Founders Union Building			

	Restricted Funds	-0-	12,190,000	-0-
007.	Utility Distribution - South Belknap Campus			
	Restricted Funds	-0-	6,821,000	-0-
008.	Construct Student Health Facility			
	Restricted Funds	-0-	6,650,000	-0-
009.	Renovate Kersey Library			
	Restricted Funds	-0-	4,630,000	-0-
010.	Renovate Medical School Tower - 55A, Phase II			
	Restricted Funds	-0-	4,225,000	-0-
011.	Purchase Digital Communications System			
	Restricted Funds	-0-	4,000,000	-0-
012.	Purchase Real Estate Near Health Sciences Campus - Parcel II			
	Restricted Funds	-0-	3,875,000	-0-
013.	Renovate Code Improvement Pool			
	Restricted Funds	-0-	3,191,000	-0-
014.	Purchase Networking System			
	Restricted Funds	-0-	3,000,000	-0-
015.	Purchase Enterprise Application System			
	Restricted Funds	-0-	2,000,000	-0-
016.	Purchase Computer Processing System			
	Restricted Funds	-0-	2,000,000	-0-
017.	Expand & Renovate Oppenheimer Hall - Additional Reauthorization ($6,276,000 Restricted Funds)			
	Restricted Funds	-0-	1,654,000	-0-
018.	Purchase Electronic Research Information System			
	Restricted Funds	-0-	1,080,000	-0-
019.	Purchase Robotic Telescope System			
	Federal Funds	-0-	1,000,000	-0-
020.	Purchase Storage System			
	Restricted Funds	-0-	1,000,000	-0-
021.	Lease Digital Output System			
	Restricted Funds	-0-	1,000,000	-0-
022.	Lease-Purchase Visualization System			
	Restricted Funds	-0-	1,000,000	-0-
023.	Purchase Artificial Turf Practice Field Facility			
	Restricted Funds	-0-	750,000	-0-
024.	Housing Capital Renewal Pool			
	Restricted Funds	-0-	710,000	-0-
025.	Purchase Health Research Data System			
	Restricted Funds	-0-	700,000	-0-
026.	Renovate Natural Science Building - Additional Reauthorization ($12,840,000 Restricted Funds)			
	Restricted Funds	-0-	540,000	-0-
027.	Shelby Campus Dormitories Demolition			
	Restricted Funds	-0-	436,000	-0-
028.	Purchase New Computers for CBPA			
	Restricted Funds	-0-	300,000	-0-
029.	Purchase PCs, Printers, Scanners			

	Restricted Funds	-0-	200,000	-0-
030.	Purchase Linux Cluster Computer System			
	Restricted Funds	-0-	125,000	-0-
031.	Renovate Chemistry Fume Hood Redesign, Phase II - Additional Reauthorization ($4,534,000 Restricted Funds)			
	Restricted Funds	-0-	76,000	-0-
032.	Construct Athletic Academic Support Facility			
	Other Funds	-0-	5,000,000	-0-
033.	Construct Boathouse for Women's Rowing Program			
	Other Funds	-0-	2,947,000	-0-
034.	Construct Cardinal Club Golf Practice Facility			
	Other Funds	-0-	685,000	-0-
035.	Construct Diversity Center for Excellence			
	Other Funds	-0-	-0-	5,898,000
036.	Construct Executive MBA/Business Program			
	Other Funds	-0-	6,040,000	-0-
	Restricted Funds	-0-	20,500,000	-0-
	TOTAL	-0-	26,540,000	-0-
037.	Construct Glass and Visual Arts Research Center			
	Other Funds	-0-	3,015,000	-0-
038.	Construct Eastern Parkway Improvement			
	Restricted Funds	-0-	2,200,000	-0-
039.	Expand Tragar Field Hockey Stadium			
	Other Funds	-0-	3,200,000	-0-
040.	Expand and Renovate Dental School			
	Other Funds	-0-	2,000,000	-0-
	Restricted Funds	-0-	35,170,000	-0-
	TOTAL	-0-	37,170,000	-0-
041.	Purchase Support Service Land (Northeast Quad)			
	Restricted Funds	-0-	5,095,000	-0-
042.	Renovate PJCS Scoreboard/Video Replacement			
	Other Funds	-0-	1,800,000	-0-
043.	Renovate Life Sciences Building			
	Restricted Funds	-0-	18,240,000	-0-
045.	*Construct HSC Parking Structure II*			
	Agency Bonds	*-0-*	*28,500,000*	*-0-*
048.	Construct Utilities, Remove Overhead Lines Reauthorization ($3,194,000 Restricted Funds)			
049.	Expand Ambulatory Care Building Academic Addition Reauthorization ($43,061,800 *Other*~~[Restricted]~~ Funds)			
050.	Purchase Real Estate Near HSC and Renovate Offices Reauthorization ($20,500,000 Restricted Funds)			
051.	Renovate Shelby Campus Infrastructure Reauthorization ($8,740,000 Restricted Funds)			
052.	Jefferson County - Lease			
053.	Medical Center One - Lease			
054.	Guaranteed Energy Savings Performance Contracts			
055.	*Expand Papa John's Cardinal Stadium*			
	Restricted Funds	*-0-*	*30,000,000*	*-0-*

Other Funds	***-0-***	***37,000,000***	***-0-***
TOTAL	***-0-***	***67,000,000***	***-0-***

Section 12. 2006 Kentucky Acts Chapter 252, Part IV, State Salary/Compensation and Employment Policy; 8. Employer Retirement Contribution Rates, at page 1403, is amended to read as follows

8. **Employer Retirement Contribution Rates:** Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2006, through ***March 31***~~[June 30]~~, 2007, shall be 7.75 percent, consisting of 4.83 percent for pension and 2.92 percent for insurance, for nonhazardous duty employees and 22.0 percent, consisting of 8.75 percent for pension and 13.25 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 25.5 percent, consisting of 12.44 percent for pension and 13.06 percent for insurance. ***Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from April 1, 2007, through June 30, 2007, shall be 14.47 percent, consisting of 4.83 percent for pension and 9.64 percent for insurance, for nonhazardous duty employees and 28.72 percent, consisting of 8.75 percent for pension and 19.97 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be 32.22 percent, consisting of 12.44 percent for pension and 19.78 percent for insurance.*** Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2007, through June 30, 2008, shall be 8.5 percent, consisting of 5.47 percent for pension and 3.03 percent for insurance, for nonhazardous duty employees and 24.25 percent, consisting of 9.79 percent for pension and 14.46 percent for insurance for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 28.0 percent, consisting of 14.23 percent for pension and 13.77 percent for insurance.

Any General Fund moneys directed to be appropriated by Part VII, General Fund Surplus Expenditure Plan, of this Act prior to the effective date of this Act during the 2006-2008 biennium to the Kentucky Retirement Systems to address a portion of the actuarially unfunded liability shall be appropriated to the Kentucky Retirement Systems Insurance Fund as established in KRS 61.701 and shall be allocated in proportion to the contributions required according to KRS 61.702(2) for the Kentucky Employees Retirement System Insurance Fund and the State Police Retirement System Insurance Fund.

Section 13. 2006 Kentucky Acts Chapter 252, Part VII, General Fund Surplus Expenditure Plan, at pages 1409 and 1410, is amended to read as follows:

(1) Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2006-2007 and 2007-2008. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 27, of this Act are appropriated to the following:

(a) Necessary Government Expenses, including but not limited to Emergency Orders formally declared by the Governor in an Executive Order; ***and***

(b) Increased support to the Budget Reserve Trust Fund~~[;~~

~~(c) The Kentucky Retirement Systems to address a portion of the actuarially unfunded liability; and~~

~~(d) The Kentucky Teachers' Retirement System's medical insurance fund as established in KRS 161.420 to augment the state medical insurance stabilization contribution as established in KRS 161.550]~~.

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of the fiscal year 2005-2006, and the close of fiscal year 2006-2007, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2005-2006 and fiscal year 2006-2007. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2006, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2005-2006 pursuant to the Plan.

Section 14. 2006 Kentucky Acts Chapter 252, Part XXIX, Self-Insured Plan for State Employees, at pages 1479 to 1481, is amended to read as follows:

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 18A.2254 is amended to read as follows:

(1) Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:

(a) The secretary of the Personnel Cabinet shall incorporate by reference in an administrative regulation, pursuant to

KRS 13A.2251, the summary plan description for public employees covered under the self-insured plan. Prior to filing an administrative regulation with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review***. The administrative regulation shall be exempt from the review requirements of KRS 18A.110(6)***;

(b) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;

(c) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;

(d) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;

(e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;

(f) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;

(g) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.

(2) In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2007, the Personnel Cabinet shall offer a health reimbursement account for public employees insured under the Public Employee Health Insurance Program.

(a) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet, but not less than one hundred seventy-five dollars ($175), for that employee as an employer contribution to the health reimbursement account.

(b) The administrative fees associated with the health reimbursement account shall be an authorized expense to be charged to the public employee health insurance trust fund.

(3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. The trust fund shall not utilize funds for any other purpose, except by approval of the General Assembly. The following moneys shall be directly deposited into the trust fund:

1. Employer and employee premiums collected under the self-insured plan;
2. Interest and investment returns earned by the self-insured plan;
3. Rebates and refunds attributed to the self-insured plan; and
4. All other receipts attributed to the self-insured plan.

(b) Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraph (a) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund.

(c) The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.

(d) The secretary of the Personnel Cabinet shall file a report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the

Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006. The report shall include the following:

1. The current balance of the trust fund;
2. A detailed description of all income to the trust fund since the last report;
3. A detailed description of any receipts due to the trust fund;
4. A total amount of payments made for medical claims from the trust fund;
5. A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;
6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;
7. Any other information the secretary may include;
8. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and
9. In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:
    a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;
    b. A statement of any other trust fund liabilities;
    c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes; and
    d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months.
    e. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:
        1. Any results or outcomes of disease management and wellness programs;
        2. Results of case management audits and educational and communication efforts; and
        3. Comparison of actual measurable results to contract performance guarantees.

Section 15. 2006 Kentucky Acts Chapter 252, after Part XXXVI, Sales of Motor Vehicles to Nonresidents, at page 1510, is amended to include the following:

Part XXXVII

Judicial Branch

Operating Budget

Additional General Fund moneys in the amount of $995,556 are hereby appropriated to the Judicial Branch in fiscal year 2007-2008 to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007, as set forth in 2006 Ky. Acts ch. 252, Part IV, State Salary/Compensation and Employment Policy, as amended by Section 12 of this Act.

Part XXXVIII

Legislative Branch

Additional General Fund moneys in the amount of $35,300 are hereby appropriated to the Legislative Branch in fiscal year 2007-2008 to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007, as set forth in 2006 Ky. Acts ch. 252, Part IV, State Salary/Compensation and Employment Policy, as amended by Section 12 of this Act.

Section 16. Whereas it is critical to provide fiscal resources in the current biennium, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 327** is as follows:

HB 327, Amend the title to read: "AN ACT amending 2006 Kentucky Acts Chapter 252 relating to the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky, making an appropriation therefor, and declaring an emergency."

The Committee on Licensing and Occupations reported **HB 180,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 180, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

- (a) The secretary of the Environmental and Public Protection Cabinet or his designee;
- (b) The Attorney General or his designee;
- (c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;
- (d) One (1) representative from the Kentucky Charitable Gaming Association;
- (e) One (1) certified public accountant;[~~ and~~]
- (f) ***Two (2)***[~~Four (4)~~] members selected from the public at large***; and***
- ***(g) Two (2) representatives selected from the Joint Executive Council of Veterans Organizations of Kentucky***.

The certified public accountant, the ***two (2)***[~~four (4)~~] at-large members, ***the two (2) representatives from the Joint Executive Council of Veterans Organizations of Kentucky,*** and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations ***and the two (2) representatives from the Joint Executive Council of Veterans Organizations of Kentucky*** shall be selected from a list of at least three (3) names submitted to the Governor by the respective association ***or the Joint Executive Council of Veterans Organizations of Kentucky***.

(2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.

(3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the office and to the General Assembly but shall not establish policy or become directly involved in the licensing and regulation of charitable gaming by the office.

(4) The commission shall meet quarterly or as otherwise directed by the office. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership, and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 2. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the office. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

- (a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per year;
- (b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and
- (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the office in writing, on a simple form issued by the office, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

- (a) Payment of the fee imposed under the provisions of KRS 238.570; and
- (b) The quarterly reporting requirements imposed under the provisions of KRS 238.550(5), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the office a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the office. Upon receipt of the yearly financial report, the office shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the office determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the office shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the office; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the office shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the office determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the office determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:

1. Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph (c) of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and

2. Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with paragraph (d) of this subsection;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the office, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the office a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

(d) ***1. Except as provided in subparagraph 2. of this paragraph,*** have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Office of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing in a Kentucky county other than that in which the organization's office or place of business is located if the organization notifies the Office of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the office, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the office shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this ***subparagraph***[~~paragraph~~], shall be permitted to conduct in its county of residence a charity fundraising event.

2. A veterans organization may conduct charitable gaming activities at veterans-related events such as conferences and conventions for the benefit of their members only in a Kentucky county other than that in which the organization's office or place of business is located.

(9) In applying for a license, the information to be submitted shall include but not be limited to the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations' bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the Federal Internal Revenue Service to the office; and

(l) Any other information the office deems appropriate.

(10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars ($150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.

(11) The office may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(12) The office shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(13) (a) A licensed charitable organization may place its charitable gaming license in escrow if:

1. The licensee notifies the office in writing that it desires to place its license in escrow; and

2. The license is in good standing and the office has not initiated disciplinary action against the licensee.

(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.

(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:

1. The charitable organization continues to qualify for licensure;
2. The charitable organization has not engaged in charitable gaming during the escrow period; and
3. The charitable organization pays a reinstatement fee established by the office.

Section 3. KRS 238.540 is amended to read as follows:

(1) Except as provided in KRS 238.535(8)(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. A license holder shall notify the office at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the office shall be received by the licensee prior to the conduct of charitable gaming at a new location.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the office, law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the administration and conduct of the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. ***A charitable organization may employ the use of electronic or non-electronic pulltab dispensers.*** No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual. Any effort or attempt to disguise any other type of compensation or private inurement shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.

(6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the limitation of five thousand dollars ($5,000) per twenty-four (24) hour period set forth in KRS 238.545(1).

The Committee Substitute to **HB 180** is as follows:

HB 180, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

(a) The secretary of the Environmental and Public Protection Cabinet or his designee;

(b) The Attorney General or his designee;

(c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;

(d) One (1) representative from the Kentucky Charitable Gaming Association;

(e) One (1) certified public accountant;[~~ and~~]

(f) ***Two (2)***[~~Four (4)~~] members selected from the public at large***; and***

(g) Two (2) representatives selected from the Joint Executive Council of Veterans Organizations of Kentucky.

The certified public accountant, the ***two (2)***[~~four (4)~~] at-large members, ***the two (2) representatives from the Joint Executive Council of Veterans Organizations of Kentucky,*** and the representatives from the Kentucky Commonwealth's

Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations ***and the two (2) representatives from the Joint Executive Council of Veterans Organizations of Kentucky*** shall be selected from a list of at least three (3) names submitted to the Governor by the respective association ***or the Joint Executive Council of Veterans Organizations of Kentucky***.

(2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.

(3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the office and to the General Assembly but shall not establish policy or become directly involved in the licensing and regulation of charitable gaming by the office.

(4) The commission shall meet quarterly or as otherwise directed by the office. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership, and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 2. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the office. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per year;

(b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the office in writing, on a simple form issued by the office, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The quarterly reporting requirements imposed under the provisions of KRS 238.550(5), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the office a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the office. Upon receipt of the yearly financial report, the office shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the office determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the office shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the office; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the office shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the office determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the office determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:

1. Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph (c) of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and

2. Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with paragraph (d) of this subsection;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the office, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the office a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

(d) ***1. Except as provided in subparagraph 2. of this paragraph,*** have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Office of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing in a Kentucky county other than that in which the organization's office or place of business is located if the organization notifies the Office of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the office, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the office shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this ***subparagraph***~~[paragraph]~~, shall be permitted to conduct in its county of residence a charity fundraising event.

2. A veterans organization may conduct charitable gaming activities at veterans-related events such as conferences and conventions for the benefit of their members only in a Kentucky county other than that in which the organization's office or place of business is located.

(9) In applying for a license, the information to be submitted shall include but not be limited to the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations' bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the Federal Internal Revenue Service to the office; and

(l) Any other information the office deems appropriate.

(10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars ($150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.

(11) The office may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(12) The office shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(13) (a) A licensed charitable organization may place its charitable gaming license in escrow if:

1. The licensee notifies the office in writing that it desires to place its license in escrow; and

2. The license is in good standing and the office has not initiated disciplinary action against the licensee.

(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.

(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:

1. The charitable organization continues to qualify for licensure;

2. The charitable organization has not engaged in charitable gaming during the escrow period; and

3. The charitable organization pays a reinstatement fee established by the office.

The Committee on Banking and Insurance reported **HB 18, HB 254, HB 255, HB 506,** and **SB 68,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 18, AN ACT relating to basic reparations benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-210 is amended to read as follows:

(1) Basic and added reparation benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as work

loss, replacement services loss, or medical expense is incurred. Benefits are overdue if not paid within thirty (30) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding thirty-one (31) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, and pays them within fifteen (15) days after the period of accumulation. ***The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered.*** Notwithstanding any provision of this chapter to the contrary, benefits are not overdue if a reparation obligor has not made payment to a provider of services due to the request of a secured person when the secured person is directing the payment of benefits among the different elements of loss. If reasonable proof is supplied as to only part of a claim, and the part totals one hundred dollars ($100) or more, the part is overdue if not paid within the time provided by this section. Medical expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant, if the claimant so designates. ***In no event shall a fee for medical expenses exceed the limitations of the Kentucky workers' compensation fee schedule as set forth in KRS 342.035 and in administrative regulations adopted pursuant thereto. No provider of medical services or treatment required by this subtitle shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge for services or treatment covered by a basic reparation obligor in excess of the schedule of fees provided by this section or cause the credit of any insured to be impaired by reason of the insured's failure or refusal to pay the excess charge.***

(2) Overdue payments bear interest at the rate of twelve percent (12%) per annum, except that if delay was without reasonable foundation the rate of interest shall be eighteen percent (18%) per annum.

(3) A claim for basic or added reparation benefits shall be paid without deduction for the benefits which are to be subtracted pursuant to the provisions on calculation of net loss if these benefits have not been paid to the claimant before the reparation benefits are overdue or the claim is paid. The reparation obligor is entitled to reimbursement from the person obligated to make the payments or from the claimant who actually receives the payments.

(4) A reparation obligor may bring an action to recover benefits which are not payable, but are in fact paid, because of an intentional misrepresentation of a material fact, upon which the reparation obligor relies, by the insured or by a person providing an item of medical expense. The action may be brought only against the person providing the item of medical expense, unless the insured has intentionally misrepresented the facts or knows of the misrepresentation. An insurer may offset amounts he is entitled to recover from the insured under this subsection against any basic or added reparation benefits otherwise due.

(5) A reparation obligor who rejects a claim for basic reparation benefits shall give to the claimant prompt written notice of the rejection, specifying the reason. If a claim is rejected for a reason other than that the person is not entitled to the basic reparation benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

HB 254, AN ACT relating to gift cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.890 is amended to read as follows:

(1) "Gift card," as used in this section, means a certificate, electronic card, or other medium issued by a merchant that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, services, credit, or money of at least an equal value. "Gift card" includes any electronic card issued by a merchant with a monetary value where the issuer has received payment for the full monetary value for the future purchase or delivery of goods or services and any certificate issued by a merchant where the issuer has received payment for the full monetary face value of the certificate for the future purchase or delivery of goods and services. "Gift card" does not include a prepaid calling card used to make telephone calls, or a general-use, prepaid card or other electronic payment device that is issued by a bank or other financial institution that is usable at multiple, unaffiliated merchants, or at automated teller machines, or both, or a gift card issued by a merchant for a promotional program for which no separate monetary consideration is given.

(2) Subject to subsection ***(a)***~~[(5)]~~ of this section, no person or entity shall sell a gift card containing an expiration date that is less than one (1) year after the date the gift card is issued.

(3) No person or entity shall charge service charges or fees relative to that gift card, including dormancy fees, latency fees, or administrative fees, that have the effect of reducing the total amount for which the holder of the gift card may redeem the gift card until the expiration date on the card has expired.

(4) A gift card sold without an expiration date printed on the front or back of the card is valid until redeemed or replaced with a new gift card.

(5) ***The issuer of a gift card shall not:***

(a) Limit the geographic locations at which the gift card can be used other than limiting the use of the gift card to a location owned or operated by the issuer or the card;

(b) Limit, other than by the expiration date, the times, dates, or circumstances of the use of the gift card at any

location owned or operated by the issuer of the gift card; or

(c) Limit, other than as required by statute or administrative regulation, the purchase of any item sold or any service offered by the issuer of the gift card.

(6) The issuer of a gift card shall keep a record of each gift card issued, which shall contain:

(a) The name of the person who purchased the gift card;

(b) The address of the person who purchased the gift card;

(c) The dollar amount of the gift card;

(d) The date on which the gift card was issued;

(e) The expiration date, if applicable, of the gift card; and

(f) Any number placed on the gift card which identifies that particular gift card.

(7) Any violation of this section or any other statute relating to the issuance of gift cards shall, in addition to any other penalty, be an unfair trade practice. The Attorney General shall have jurisdiction, in addition each county attorney with appropriate jurisdiction, to enforce this section and shall have the same power with regard to violations of this section or any other statute relating to the issuance of gift cards as the Attorney General or county attorney possesses with regard to any other violation which constitutes an unfair trade practice.

(8) In addition to any civil remedy authorized by this section or other provision of law, a violation of this section is a Class A misdemeanor.

(9) If the expiration date on the card is not less than one hundred twenty (120) days from the date of issue, subsection (2) of this section does not apply to any of the following gift cards:

(a) Distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or anything of value being given in exchange for the gift card by the consumer;

(b) Sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes;

(c) Sold by a nonprofit or charitable organization for fundraising purposes; or

(d) Given by an employer to an employee, if use of the card is limited to the employer's business establishment. As used in this paragraph, business establishment may include a group of merchants that are affiliated with that business establishment.

(10)[~~(6)~~] *In addition to any other penalty authorized by law,* any person who violates subsection (3) of this section is liable to the holder of the card for any amount that the redemption value of the gift card was reduced, any court costs incurred, and reasonable attorney's fees.

Section 2. KRS 393.020 is amended to read as follows:

If any property having a situs in this state has been devised or bequeathed to any person and is not claimed by that person or by his heirs, distributees, or devisees within three (3) years after the death of the testator, or if the owner of any property having a situs in this state dies without heirs or distributees entitled to it and without disposing of it by will, it shall vest in the state, subject to all legal and equitable demands. Any property*, including but not limited to gift cards,* abandoned by the owner, except a perfect title to a corporeal hereditament, shall vest in the state, subject to all legal and equitable demands. Any property that vests in the state under this section shall be liquidated, and the proceeds, less costs, fees, and expenses incidental to all legal proceedings of the liquidation shall be paid to the department.

HB 255, AN ACT relating to a health insured's right to obtain an estimate of his or her liability from an insurer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a written request from an insured, an insurer issuing a health benefit plan under this subtitle shall make a good faith effort to provide the insured with information on estimated potential costs for a specified procedure or service within fourteen (14) business days.

(2) The insurer may require the insured to provide detailed information regarding the procedure or service to be performed, including the procedure or service code number provided by the health care provider and the health care provider's estimated charge. An insurer that provides an estimate shall not be bound by the estimate and shall not be held responsible for any costs that are incurred outside of the estimate provided. An insurer may fulfill the requirements of this section by making estimated cost information available on its Web site.

HB 506, AN ACT relating to health benefit plan coverage of screening for prostate cancer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health benefit plan offered, issued, or renewed in this state on or after January 1, 2008, shall cover at least one (1) annual screening for the early detection of prostate cancer for all men forty (40) years of age or older and for those men thirty-five (35) years of age or older who are considered high-risk for prostate cancer, including African-American men and those with a definite or indeterminate family history of prostate cancer according to the prostate cancer early detection guidelines of the National Alliance of State Prostate Cancer Coalitions or the Kentucky Prostate Cancer Coalition.

(2) The benefit required to be provided under subsection (1) of this section shall not diminish or limit diagnostic benefits otherwise allowable under a health benefit plan.

(3) The prostate cancer screening coverage shall consist of, at a minimum, the following tests:

(a) A prostate-specific antigen (PSA) blood test; and

(b) A digital rectal examination (DRE).

(4) If a health care provider recommends that an insured undergo a prostate-specific antigen blood test, coverage may not be denied because the insured has had a digital rectal examination and the examination results were negative.

SB 68, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-080 is amended to read as follows:

(1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."

(2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.

(3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies may continuously provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(5) Except for entities described in subsections (3) and (4), every owner of a motor vehicle registered in this Commonwealth or operated in this Commonwealth by him or with his permission shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this subtitle and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle. The owner of a motor vehicle who fails to maintain security on a motor vehicle in accordance with this subsection shall have his or her motor vehicle registration revoked in accordance with KRS 186A.040 and shall be subject to the penalties in KRS 304.99-060. An owner who permits another person to operate a motor vehicle without security on the motor vehicle as required by this subtitle shall be subject to the penalties in KRS 304.99-060.

(6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this subtitle.

(7) Self-insurance, subject to approval of the executive director of insurance, is effected by filing with the executive director in satisfactory form:

(a) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by this subtitle;

(b) Evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided by this subtitle; and

(c) Evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance, complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

(8) An entity described in subsection (3) or (4) may provide security by lawfully obligating itself to pay basic reparation

benefits in accordance with this subtitle; and

(9) A person providing security pursuant to subsection (7) is a "self-insurer." An entity described in subsections (3) or (4) that has provided security pursuant to subsection (6) is an "obligated government."

(10) No person shall operate a motor vehicle without security on the motor vehicle as required by this section.

The House Committee Substitute to **SB 68** is as follows:

SB 68, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-080 is amended to read as follows:

(1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."

(2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.

(3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies may continuously provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(5) Except for entities described in subsections (3) and (4), every owner ***or operator*** of a motor vehicle registered in this Commonwealth or operated in this Commonwealth[~~ by him or~~] with ***an owner's***[~~his~~] permission shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this subtitle and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle. The owner of a motor vehicle who fails to maintain security on a motor vehicle in accordance with this subsection shall have his or her motor vehicle registration revoked in accordance with KRS 186A.040 and shall be subject to the penalties in KRS 304.99-060. An owner who permits another person to operate a motor vehicle without security on the motor vehicle as required by this subtitle shall be subject to the penalties in KRS 304.99-060.

(6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this subtitle.

(7) Self-insurance, subject to approval of the executive director of insurance, is effected by filing with the executive director in satisfactory form:

   (a) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by this subtitle;

   (b) Evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided by this subtitle; and

   (c) Evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance, complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

(8) An entity described in subsection (3) or (4) may provide security by lawfully obligating itself to pay basic reparation benefits in accordance with this subtitle***.***[~~; and~~]

(9) A person providing security pursuant to subsection (7) is a "self-insurer." An entity described in subsections (3) or (4) that has provided security pursuant to subsection (6) is an "obligated government."

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 183** and **SB 22** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 183, AN ACT relating to the Kentucky Department of Veterans' Affairs acting as a fiduciary.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 40.310 is amended to read as follows:

(1) The Department of Veterans' Affairs shall collect all necessary data and information regarding facilities and services available to veterans, their families, and dependents, and shall cooperate with all information or service agencies throughout the state in informing such persons regarding the existence or availability of all educational, training, and

retraining facilities; health, medical, rehabilitation, and housing services and facilities; employment and reemployment services; provisions of federal, state, and local laws affording rights, privileges, and benefits to said persons, their families, and dependents, and all other matters of similar related or appropriate nature. It shall likewise be the duty of the department to assist veterans and their families and dependents in the presentation, proof, and establishment of all claims, privileges, rights, and other benefits which they may have under federal, state, or local laws, and to cooperate with all national, state, and local government and private agencies securing services or any benefits to veterans, their families, and dependents.

(2) The commissioner of the Department of Veterans' Affairs shall prepare and submit to the Governor and each member of the board an annual report with reference to claims presented on behalf of veterans and to otherwise report the activities and accomplishments of the department.

(3) The Department of Veterans' Affairs shall be authorized to apply for and accept gifts, grants, and other contributions from the federal government, or from any other governmental unit which funds shall be administered by the department through use of trust and agency accounts.

(4) Veterans, as used in KRS 40.305 to 40.310 include any individual who served on active duty during peace or war in the Armed Forces of the United States, and who has received an honorable discharge from such service.

(5) The Department of Veterans' Affairs shall maintain full, adequate, and complete copies of all records pertaining to claims of veterans who file said claims for benefits through the department.

(6) The commissioner of the Department of Veterans' Affairs may purchase liability insurance for the protection of employees of the Department of Veterans' Affairs to protect them from liability for acts, omissions, and claims arising in the course and scope of their employment or service to the department.

(7) The Department of Veterans' Affairs may act as a fiduciary under Sections 2, 3, 4, 5, 6, and 7 of this Act and shall promulgate administrative regulations necessary for the implementation of its fiduciary duties under these sections.

Section 2. KRS 388.190 is amended to read as follows:

As used in this chapter:

(1) The term "person" includes a partnership, corporation***,***[~~or~~] an association***, or the Kentucky Department of Veterans' Affairs***.

(2) The term "Veterans Administration" means the Veterans Administration, its predecessors or successors.

(3) The terms "estate" and "income" shall include only moneys received by the guardian or conservator from the Veterans Administration, all earnings, interest and profits derived therefrom and all property acquired therewith.

(4) The term "benefits" shall mean all moneys paid or payable by the United States through the Veterans Administration.

(5) The term "administrator" means the administrator of veterans affairs or his successor.

(6) The term "ward" means a beneficiary of the Veterans Administration.

(7) The term "guardian" as used herein shall mean any person acting as a fiduciary for a person adjudged mentally disabled.

(8) The term "court" means the District Court of the county of the beneficiary's residence.

SECTION 3. A NEW SECTION OF KRS CHAPTER 388 IS CREATED TO READ AS FOLLOWS:

(1) When the Kentucky Department of Veterans' Affairs is appointed as a guardian or a conservator, the department may transact business in the same manner as any person.

(2) Any fees that the Kentucky Department of Veterans' Affairs receives for acting as a guardian or a conservator shall be placed in a trust and agency account, from which shall be drawn money to cover the expenses associated with acting as a guardian or a conservator.

Section 4. KRS 388.220 is amended to read as follows:

(1) Except as hereinafter provided, it shall be unlawful for any person to accept appointment as guardian or conservator of any minor or mentally disabled beneficiary of the Veterans Administration if such proposed guardian or conservator shall at that time be acting as guardian or conservator for five (5) wards. In any case, upon presentation of a petition by an attorney of the Veterans Administration under this section alleging that a guardian or conservator is acting in a fiduciary capacity for more than five (5) wards and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian or conservator and shall discharge such guardian or conservator in said case.

(2) The limitations of this section shall not apply where the guardian or conservator is a bank***,***[~~or~~] trust company***, or the Kentucky Department of Veterans' Affairs***. An individual may be guardian or conservator of more than five (5) wards if they are all members of the same family.

Section 5. KRS 388.230 is amended to read as follows:

(1) A petition for the appointment of a guardian or conservator for any minor or mentally disabled beneficiary of the Veterans Administration may be filed in the court having jurisdiction by or on behalf of any person who under existing law is entitled to priority of appointment. If there be no person so entitled or if the person so entitled shall neglect or refuse to file

such a petition within thirty (30) days after mailing of notice by the Veterans Administration to the last known address of such person indicating the necessity for the same, a petition for such appointment may be filed by or on behalf of any responsible person residing in this state.

(2) The petition for appointment shall set forth the name, age, place of residence of such beneficiary, the name and place of residence of the nearest relative, if known, and the fact that such beneficiary is entitled to receive benefits payable by or through the Veterans Administration and shall set forth the amount of moneys then due and the amount of probable future payments.

(3) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of such beneficiary, and the name, age, relationship, if any, occupation and address of the person proposed for appointment as guardian or conservator. Notwithstanding any provision of existing law as to priority, the court may appoint a capable individual, bank***,***[~~or~~] trust company, ***or the Kentucky Department of Veterans' Affairs*** as guardian or conservator, if the person entitled to priority fails to apply, or if after hearing the court determines it is for the best interest of such beneficiary to appoint another.

(4) In the case of a mentally disabled beneficiary, the petition shall show that such beneficiary has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration.

Section 6. KRS 388.270 is amended to read as follows:

(1) ***(a)*** Before making an appointment under the provisions of this chapter, the court shall be satisfied that the person whose appointment is sought is a fit and proper person to be appointed. Upon the appointment being made, ***except as provided in paragraph (b) of this subsection,*** the guardian or conservator shall execute and file a bond to be approved by the court in an amount not less than the estimated value of the personal estate and anticipated income during the ensuing year. The said bond shall be in the form and be conditioned as required of guardians and conservators appointed under the general guardianship laws of this state. The court shall have power from time to time to require the guardian or conservator to file an additional bond.

(b) Bond shall not be required of the Kentucky Department of Veterans' Affairs.

(2) Where a bond is tendered by a guardian or conservator with personal sureties, there shall be at least two (2) such sureties and they shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and shall state that they are each worth the sum named in the bond as the penalty thereof over and above all their debts and liabilities and exclusive of property exempt from execution. Notwithstanding such tender, the court may require additional security or may require a corporate surety bond, the premium thereon to be paid from the ward's estate.

Section 7. KRS 388.300 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, compensation payable to guardians or conservators shall not exceed five percent (5%) of the income of the ward during any year, but in no event shall the amount of such compensation be less than fifty dollars ($50) for each year. In the event of extraordinary services rendered by any guardian or conservator, the court may, upon petition and after notice to the Veterans Administration and hearing thereon, authorize reasonable additional compensation therefor payable from the estate of the ward. Notice of such petition and hearing shall be given to the proper office of the Veterans Administration in the manner provided in KRS 388.280. No commission or compensation shall be allowed on the estate received from a preceding guardian.

(2) The Kentucky Department of Veterans' Affairs shall receive compensation consistent with federal guidelines. However, in no instance shall the department receive compensation in excess of compensation allowed under subsection (1) of this section.

SB 22, AN ACT relating to the public employee health insurance program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "TRICARE" means the Department of Defense health care program for active duty and retired uniformed service members and their families.

(2) Beginning with plan year 2008, the Personnel Cabinet, Department for Employee Insurance, shall select and contract with one (1) or more providers to offer a group TRICARE supplement product to eligible employees who are eligible TRICARE beneficiaries.

(3) The Commonwealth of Kentucky shall pay the cost of individual TRICARE supplement insurance to cover the employee, not to exceed the cost of the lowest priced individual plan offered to public employees. The employee shall pay the cost of coverage for his or her spouse and dependent children.

(4) Those employees eligible for TRICARE insurance who elect the Commonwealth of Kentucky sponsored TRICARE supplement insurance shall not be eligible for other coverage offered through the public employee health insurance

program. Those employees eligible for TRICARE insurance who choose not to elect the Commonwealth of Kentucky sponsored TRICARE supplement insurance shall continue to be eligible for the coverage offered through the public employee health insurance program.

(5) The secretary of the Personnel Cabinet may promulgate administrative regulations to carry out the provisions of this section.

Calendar

HB 471, HCR 154, HB 66, SB 159, HB 552, HJR 72, SB 83, SJR 93, HB 347, 467, 549, 117, 307, 397, 444, 446, 472, 496, 526, HCR 155, and **SB 60** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Couch moved the adoption of the following **HR 132**:

HR 132, A RESOLUTION honoring Kentucky Vehicle Enforcement Officer Landry Collett for receiving both state and national accolades for the apprehension of impaired drivers.

WHEREAS, in 2004 Officer Landry Collett led the Commonwealth with over 347 arrests for impaired driving and as a result, in 2005 was the recipient of the Kentucky Vehicle Enforcement's annual DUI Award; and

WHEREAS, Officer Landry Collett was one of 23 officers throughout this great nation who was awarded a scholarship by the National Highway Traffic Safety Administration to attend the Mothers Against Drunk Driving (MADD) national conference in Washington, D.C., where he was the recipient of an award for his courageous efforts in impaired driving apprehension; and

WHEREAS, in 2006 Officer Landry Collett apprehended and removed over 450 impaired drivers from our Kentucky roadways; and

WHEREAS, as a result of his hard work and determination to reduce impaired driving in the Commonwealth, Officer Landry Collett was awarded the Governor's Award for Impaired Driving Enforcement and the Governor's Division V Award for Outstanding Achievement in the Apprehension of Impaired Drivers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do hereby applaud the accomplishments of Officer Landry Collett and congratulate him for his great tenacity in removing impaired drivers from Kentucky's roadways.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Officer Landry Collett.

Section 3. The Clerk of the House of Representatives shall forward a copy of this Resolution to Representative Tim Couch for presentation to Officer Landry Collett.

There being no objection, **HR 132** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **HR 132** the vote was: **Yeas 92.** (See February 28, 2007, roll call to show co-sponsors on **HR 132**-Appendix.)

Representative Adkins moved that the requirement under House Rule 60 that amendments be filed at least one legislative day prior to consideration be waived on Floor Amendment No. 3 Title to **HB 187**. Agreed.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Hall moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Hall moved the adoption of the following **HR 176**:

HR 176, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kentucky State Trooper Jonathan K. Leonard, who perished in the line of duty in service to his Commonwealth.

WHEREAS, 28-year old Kentucky State Trooper Jonathan K. Leonard was born August 4, 1978, in Pikeville, Kentucky, the son of Charles D. and Karen Cantrell Leonard, and departed this life on December 19, 2006, at the young age of 28 years, while responding to a nonemergency call on U.S. 119 in Pike County; and

WHEREAS, Trooper Leonard was a 1996 graduate of Belfry High School; a 2001 graduate of Morehead State University with a Bachelor's Degree in Sociology and Criminology; and was a graduate of Cadet Class #81 of the Kentucky State Police Academy; and

WHEREAS, Trooper Leonard was preceded in death by his paternal grandparents, Wallace Elmo and Dorine Leonard, and his maternal grandfather, Delmon Cantrell. In addition to his parents, he is survived by two brothers, Chad D. and Josh S. Leonard; his fiancee, Alison Davis; maternal grandmother, Beulah Mae Cantrell; a niece, Kayla Leonard; a nephew, Chase D. Leonard; and a host of aunts, uncles, cousins, and friends; and

WHEREAS, Trooper Leonard is the 24th trooper killed in the line of duty in the 58-year history of the Kentucky State Police, and the first since 1988. The untimely passing of this outstanding young man reminds each of us of the risks assumed by the brave men and women who serve this Commonwealth, not just with the State Police, but in law enforcement at all levels. They risk their lives out of duty and, sadly, they sometimes give their lives to protect ours;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sincere condolences upon the tragic passing of Kentucky State Police Trooper Jonathan K. Leonard, and extends its deepest sympathy to his family, friends, colleagues, and community.

Section 2. When the House of Representatives adjourns this day, it does to in loving memory and honor of Trooper Jonathan K. Leonard, and extends the thanks of a grateful Commonwealth for his years of dedicated service.

Section 3. The Clerk of the House of Representatives shall deliver this Resolution to the Representative from Pike 93 for presentation to the Leonard family on behalf of the members.

There being no objection, **HR 176** was adopted.

Representative Hoover moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Hoover moved the adoption of the following **Legislative Citation No. 52**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Erin Ashley Blankenship of Russell Springs, Kentucky, upon being crowned the 2006 Homecoming Queen at the University of Kentucky and thereafter being chosen to serve as an ambassador of the City of Louisville and the Kentucky Derby through her selection as a Princess for the 2007 Kentucky Derby Festival. A graduate of Russell County High School who is currently pursuing a degree in psychology at UK, this esteemed honoree has labored with great integrity as an outstanding leader on campus and role model amongst her peers who has given generously of her time and talents as the Panhellenic Council President; as a member of the Chi Omega Sorority who was named the 2006 Greek Woman of the Year; and, as an assistant in the University of Kentucky orientation class. Associated with her current titles as Homecoming Queen, she will represent UK at the 2007 Kentucky Mountain Laurel Festival and will vie for the title of Derby Festival Queen at the annual Fillies' Derby Ball in April. Inasmuch as Erin Blankenship has demonstrated outstanding charm and grace as well as laudable achievement in scholastic and civic endeavors, this distinguished body is indeed delighted to join with Representative Jeffrey Hoover in welcoming her into the House Chambers on this day of the 2007 Regular Session of the Kentucky General Assembly and in extending best wishes for her continued success and good fortune. Done in Frankfort, Kentucky, this twenty-eighth day of February, in the year two thousand and seven.

Legislative Citation No. 52 was adopted without objection.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 35, 76, 93, 156, 275, 289, 304, 341, 348, 391, 401, 449, 469, 523, HCR 148, 139, 141, HB 66, 347, 549, HCR 154, HJR 72, HB 467,** and **HJR 137** have been posted for passage in the Regular Orders of the Day for March 1, 2007.

The Committee on Rules reported that the following Bills have been recommitted:

Judiciary: **HB 61**

Appropriations and Revenue: **HB 443, 446**

Orders of the Day

HB 431 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 431** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 28, 2007, roll call on **HB 431** - Appendix.)

HB 431 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 431** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 243, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved the adoption of the Committee Substitute to **HB 243**. Agreed.

Representative Thompson moved that **HB 243**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 28, 2007, roll call on **HB 243** - Appendix.)

HB 243, by way of Committee Substitute, was passed.

Representative Thompson moved the adoption of Committee Amendment No. 1 Title to **HB 243**. Agreed.

Representative Thompson moved that the vote by which **HB 243**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 394, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to **HB 394**. Agreed.

Representative Jenkins moved that **HB 394**, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 28, 2007, roll call on **HB 394** - Appendix.)

HB 394, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 394**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 354, with Committee Substitute and Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **HB 354**. Agreed.

Representative Webb moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 354**. Agreed.

Representative Webb moved the adoption of Committee Amendment No. 2 to the Committee Substitute to **HB 354**. Agreed.

Representative Webb moved that **HB 354**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 28, 2007, roll call on **HB 354** - Appendix.)

HB 354, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 354**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 468, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bell moved the adoption of Floor Amendment No. 1 to **HB 468**. Agreed.

Representative Bell moved that **HB 468**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 28, 2007, roll call on **HB 468** - Appendix.)

HB 468, as amended, was passed and the title agreed to.

Representative Bell moved that the vote by which **HB 468**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 366 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 366** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 28, 2007, roll call on **HB 366** - Appendix.)

HB 366 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 366** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins moved that the rules be suspended for a Committee report. Agreed.

Report of Committees

The Committee on Judiciary reported **HB 403**, with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 403** is as follows:

HB 403, AN ACT relating to consortium.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "consortium" means the right to the services, assistance, aid, society, companionship, and conjugal relationship between husband and wife, or wife and husband, and includes consortium which the surviving spouse would reasonably have been expected to enjoy in the future if the deceased spouse had survived, and is a derivative claim.

(2) In a wrongful death action in which the decedent was a spouse, the surviving spouse may recover for loss of consortium resulting from the negligence or wrongful conduct of any party that causes or contributed to the death of the spouse.

(3) If the wrongful death action is not brought by the spouse, the spouse may join the action to recover the damages allowed by this section. Damages recovered by a spouse under this section shall be distributed directly to the spouse, and shall not be subject to distribution under KRS 411.130(2).

(4) This section is remedial in nature and therefore shall be retroactive to apply to all wrongful death causes of action existing at the time of the effective date of this Act, whether filed or unfiled, which had not reached final judgment or settlement by that date and for which the wrongful death statute of limitations had not expired.

Section 2. Whereas the provisions of this Act remedy a tragic injustice worked upon the grieving surviving spouses of our fellow Kentuckians and the civil justice system exists to bring justice for the wrongful and irreplaceable loss of loved ones and no just cause exists for delay in implementing the provisions of this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Orders of Day (Continued)

HB 293 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved that **HB 293** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 28, 2007, roll call on **HB 293** - Appendix.)

HB 293 was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 293** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 383 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **HB 383** be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See February 28, 2007, roll call on **HB 383** - Appendix.)

HB 383 was passed and the title agreed to.

Representative DeWeese moved that the vote by which **HB 383** was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker Pro Tem assumed the chair.

HB 1, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute to **HB 1**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 1**. Agreed.

Representative Richards moved that **HB 1**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 5**. (See February 28, 2007, roll call on **HB 1** - Appendix.)

HB 1, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 1**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 187, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute to **HB 187**. Agreed.

Representative Richards moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 187**. Agreed.

Representative Richards moved that **HB 187**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 28, 2007, roll call on **HB 187** - Appendix.)

HB 187, by way of Committee Substitute, as amended, was passed.

Representative Richards moved the adoption of Committee Amendment No. 1 Title to **HB 187**. Agreed.

Representative Richards moved that the vote by which **HB 187**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the chair.

HB 536 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved that **HB 536** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 28, 2007, roll call on **HB 536** - Appendix.)

HB 536 was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 536** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins moved that **HB 403** be placed in the Orders of the Day. Agreed.

HB 65, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rand moved the adoption of the Committee Substitute to **HB 65**. Agreed.

Representative Rand moved that **HB 65**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See February 28, 2007, roll call on **HB 65** - Appendix.)

HB 65, by way of Committee Substitute, was passed and the title agreed to.

Representative Rand moved that the vote by which **HB 65**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 70, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved the adoption of the Committee Substitute to **HB 70**. Agreed.

Representative Crenshaw moved that **HB 70**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 70, Nays 28.** (See February 28, 2007, roll call on **HB 70** - Appendix.)

HB 70, by way of Committee Substitute, was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 70**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 79, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 79**. Agreed.

Representative Cherry moved that **HB 79**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 9.** (See February 28, 2007, roll call on **HB 79** - Appendix.)

HB 79, by way of Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 79**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 403, with Committee Substitutes, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute No. 2 to **HB 403**. Agreed.

Representative Wilkey moved that **HB 403**, by way of Committee Substitute, be passed.

Representative Fischer moved that the rules be suspended to consider Floor Amendment No. 4.

The Speaker ruled that Floor Amendment No. 4 to **HB 403** is not germane to the Committee Substitute No. 2 and is therefore out of order.

Representative Fischer moved that **HB 403** be laid on the Clerk's desk.

On the roll call that **HB 403** be laid on the Clerk's desk the vote was: **Yeas 34, Nays 59** (See February 28, 2007, roll call on **HB 403** - Appendix.)

The motion to lay **HB 403** on the Clerk's desk was rejected.

On the roll call that **HB 403**, by way of Committee Substitute, be passed the vote was: **Yeas 93, Nays 7**. (See February 28, 2007, roll call on **HB 403** - Appendix.)

HB 403, by way of Committee Substitute, was passed.

Representative Wilkey moved the adoption of Committee Amendment No. 1 Title to **HB 403**. Agreed.

Representative Wilkey moved that the vote by which **HB 403**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and the posting requirement be waived on **SB 98** and **104**. Agreed.

Representative Palumbo moved the adoption of the following **HR 180**:

HR 180, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Carl Luther "Hoot" Combs.

WHEREAS, Carl Luther "Hoot" Combs was born on May 26, 1919, in Morgan County; and

WHEREAS, Mr. Combs graduated from the University of Kentucky in 1941 and earned his law degree from the University of Kentucky College of Law in 1950. While an undergraduate at the University of Kentucky, Mr. Combs lettered in both basketball and football; and during law school, he served as a scout for Coach Adolph Rupp and as a graduate assistant for Coach Paul "Bear" Bryant; and

WHEREAS, Mr. Combs earned the rank of second lieutenant in the University of Kentucky's Reserve Officers' Training Corps before serving with the United States Army's 1st Armored Division in North Africa and Italy during World War II. For his distinguished service, he earned a Purple Heart, a Combat Infantry Badge, an EAME Ribbon with four battle stars, and eventual promotion to major; and

WHEREAS, Mr. Combs continued his affiliation with the University of Kentucky as the university's sports information officer and as a public address announcer for the school's basketball games at Memorial Coliseum and football games at Stoll Field; and

WHEREAS, Mr. Combs also used his steady voice as an announcer for the Kentucky High School Athletic Association's state basketball tournament for many years. Mr. Combs also worked in the media, as sports editor for *The Lexington Leader* and as sports announcer for WBLG-TV. Mr. Combs also called the feature race of the day at Keeneland Race Course for WBLG-AM for several years; and

WHEREAS, Mr. Combs was a partner with the law firm of Anggelis, Combs, Vimont, and Collis and served as legal adviser to the Lexington Police Department. He was also the first president of the Homebuilders Association of Lexington; and

WHEREAS, Mr. Combs was a loving father to Carl Salyer "Hooter" Combs, Carla C. Lowry, and Shannon Combs; and an adoring grandfather to Clinton Salyer Combs and Catherine Combs; and

WHEREAS, Mr. Combs departed this life on February 24, 2007, and the entire community joins his family and friends in mourning his loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Carl Luther "Hoot" Combs and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Carl Luther "Hoot" Combs.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of the Resolution to Representative Ruth Ann Palumbo for personal delivery to the family.

There being no objection, **HR 180** was adopted.

Representative Ford moved the adoption of the following **Legislative Citation No. 54**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Floyd Stanley Carter, Sr. and joins with Representative Danny Ford in expressing deepest sympathy to the Carter Family and all who mourn the death of this esteemed citizen of Mt. Vernon, Kentucky, on February 26, 2007. The son of the late Charles C. Carter and Sudie Mae Riddle, and also preceded in death by his wife, Iva Carter; brothers, Henry Carter and Clarence Carter; and sisters, Dicie Ford and Elizabeth McNew, he is survived by his son and daughter-in-law, Floyd Carter, Jr. and Judy; daughters and sons-in-law, Joyce Bussell, Janice and Wayne Haller, Brenda and Scott Beckett, and Judy Carter; brothers and sisters-in-law, Kenneth and Martha Carter and Charles and Dorothy Carter; sisters and brothers-in-law, Ion Parsons, Glenna and Byron Baker and Irene and John Anderkin; twelve grandchildren; seventeen great-grandchildren; seventeen great-great-grandchildren; and, a host of other family members, friends and loved ones. This highly-regarded gentleman, a native of Illinois; an honorable United States Army veteran of World War II; a Baptist Minister; and a member of Northside Baptist Church, is remembered on this day and honored for the many and generous contributions he made to his family, friends and the community. Floyd Stanley Carter, Sr. will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twenty-eighth day of February, in the year two thousand and seven.

Legislative Citation No. 54 was adopted without objection.

Representative Adkins moved that the rules be suspended to recommit **HB 398** to the Committee on Labor and Industry and that the posting requirement be waived. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 181, by Representative Gray: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Russell Kelgor Johnson.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **SB 36, 100, 145**

Appropriations and Revenue: **SB 1, 2**

Floor Amendments

Floor Amendment No. 1 to **HB 254**, by Representative Burch:

HB 254, On page 1, line 16, after "subsection" by deleting "*(a)*" and inserting in lieu thereof "*(6)*"; and

On page 2, by deleting lines 1 to 27 in their entirety and inserting in lieu thereof:

"***(a) Charge the purchaser an amount more than the full monetary value of the gift card; or***

(b) Charge a fee for the issuance of a gift card."; and

On page 3, line 1, by deleting "*(9)*" and inserting in lieu thereof "*(6)*"; and

On page 3, line 14, by deleting "*(10)*" and inserting in lieu thereof "*(7)*"; and

On page 3, line 14, by deleting "***In addition to any other penalty authorized by law,***"; and

On page 3, by deleting lines 18 to 27 in their entirety; and

On page 3, by deleting line 1 in its entirety.

Floor Amendment No. 3 Title to **HB 187**, by Representative Richards:

HB 187, Amend the title to read as follows: "AN ACT relating to reducing expenses of county jails.".

Floor Amendment No. 1 to the House Committee Substitute to **SJR 93**, by Representative Nelson:

SJR 93, On page 4, after line 1, insert the following:

"Section 12. The Transportation Cabinet shall honor Harlan County coal miners by naming Kentucky Route 38 in Harlan County, from the Kentucky/Virginia state line to the Ages city limit, the "Harlan County Coal Miners Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at the locations specified in this section that read "Harlan County Coal Miners Highway."".

Floor Amendment No. 1 to **HB 255**, by Representative Burch:

HB 255, On page 1, line 5, after "*potential*" by inserting "*out-of-pocket*"; and

On page 1, line 5, after "*costs*" by inserting "*to the insured*".

Floor Amendment No. 1 to the Committee Substitute to **HB 549**, by Representative Stacy:

HB 549, On page 29, line 27, delete "*and*";

On page 30, line 2, after "*Commerce*" insert "*; and*";

On page 30, between lines 2 and 3 insert the following:

"*(g) A member, to be determined by the commissioner of the Department for Local Government, who serves as a director of an area development district that is primarily rural*"; and

On page 31, line 10, delete "*four (4)*" and insert in lieu thereof "*five (5)*".

Floor Amendment No. 2 to the Committee Substitute to **HB 549**, by Representative Simpson:

HB 549, On page 17, line 15, by deleting the "*.*" and inserting the following:

"*; and*

(4) The governing body of the city or county shall find that all of the following are true:

(a) That the assessed value of real property within the development area has grown less than five percent (5%) during the five (5) years immediately preceding the year in which the development plan is developed. If real property within a development area that was previously exempt from taxation is added to the tax rolls within the development area within the five (5) years immediately preceding the year in which the development plan is developed, the addition of that property to the tax rolls shall not constitute growth in the assessed value of property within the development area for purposes of this paragraph. Any actual increases in assessed value of added property after the property is added shall be considered in the same manner as other real property in determining overall growth within the development area; and

(b) That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and

(c) That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and

(d) 1. That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or

2. If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance."; and

On page 17, line 23 by deleting the second "*and*"; and

On page 17, line 25, after "*Act*" by inserting *, and confirmation that the requirements of subsection (4) of Section 5 of this Act have been met*"; and

On page 33, line 3, by deleting "*and*"; and

On page 33, line 4, by deleting the "*.*" and inserting in lieu thereof "*; and*"; and

On page 33, after line 4, by inserting the following:

"*c. Data and information supporting the determinations and findings required by Section 5 of this Act.*"; and

On page 33, lines 6 and 7, by deleting "*for participation by the Commonwealth*" and inserting in lieu thereof" *established*

by Sections 1 to 22 of this Act"; and

On page 37, line 20, after "***Commonwealth;***" by inserting "***and***"; and

On page 37, by deleting lines 21 and 22; and

On page 37, line 23, by deleting "***(c)***" and inserting "***(b)***" in lieu thereof; and

On page 41, lines 7 and 8, by deleting "***thirty five million dollars ($35,000,000)***" and inserting in lieu thereof "***twenty million dollars ($20,000,000)***".

Floor Amendment No. 2 to **HB 188**, by Representative DeCesare:

HB 188, On page 8, after line 11 by inserting the following:

"Section 4. KRS 65.6851 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

(1) Any governing body establishing a development area may impose an assessment on each person employed in the development area, as a condition of employment, whose job was newly created as a result of a project, and as determined by the policies and procedures established by the governing body, subject to the conditions in subsection (6) of this section, and who is subject to the state tax imposed by KRS 141.020. A job shall not be deemed to be newly created under this section if it occurs due to the relocation of jobs from another location within the Commonwealth.

(2) Subject to KRS 65.6853, the total assessment levied by any governing body within the development area shall not exceed an amount equal to two percent (2%) of the gross wages of the employee.

(3) Each person so assessed shall be entitled to credits against ***the Kentucky income tax equal to the assessment withheld from wages during the calendar year as provided by Sections 5 and 6 of this Act. The credit shall not exceed the amount of the assessment imposed.*** [~~any local occupational license fee or payroll tax of the governing body that established the development area and the job development assessment fee, if an occupational license fee is then levied by that governing body and is not otherwise totally used as a credit against assessments imposed under Subchapter 23, 24, or 26 of KRS Chapter 154, and provided that the amount does not exceed the amount of the occupational licensing fee or payroll tax paid to that local government by the employee. If the governing body that created the job development assessment fee has no occupational license fee, the employee shall not be entitled to receive a credit against any other governmental agency's occupational license fee~~].

(4) Subsequent to the establishment of a development area by one (1) governing body, no other governing body may levy an assessment in any portion of the development area that would cause the total assessment in any portion of the development area to exceed two percent (2%) of the gross wages of the employee, subject to KRS 65.6853. If more than one (1) governing body jointly establishes a development area, the governing bodies that establish the development area shall agree upon the amount of the assessment and the manner by which the assessment is to be prorated among the governing bodies establishing the development area.

(5) Any assessment of employees in connection with their employment at a project levied under this section shall permanently lapse on the date:

  (a) Any bonds issued in connection with acquiring or developing the infrastructure of a development area, in accordance with KRS 65.680 to 65.699, are retired; or

  (b) Any loans or other financing incurred in connection with the establishment of a development area mature or are prepaid in full.

(6) For the purposes of this section:

  (a) The development area shall be a previously undeveloped tract of land;

  (b) No more than five hundred (500) acres may be approved in any twelve (12) month period in any county; and

  (c) Acceptable developments shall be limited to projects as defined in KRS 65.680.

(7) Any agency that has established a development area under KRS 65.680 to 65.699 prior to July 15, 2002, unless otherwise approved by the agency, shall continue to operate under the provisions of KRS 65.680 to 65.699 as determined by the policies and procedures established by the agency prior to July 15, 2002.

Section 5. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) If wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the

number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section shall consider the standard deduction.

(6) The department may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation produces substantially the same result as set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the department at least thirty (30) days before the first payroll period for which it is to be used.

(7) The department may, by administrative regulations, authorize employers:

- (a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;
- (b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and
- (c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The department may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated, the offset shall be one hundred percent (100%) of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) ***Any employer required by this section to withhold Kentucky income tax whose employees are subject to the assessment provided in Section 4 of this Act shall offset the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of offset shall equal the amount of the fee.***

(14) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the department. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the department, but shall not exceed fifty thousand dollars ($50,000).

(15)[~~(14)~~] The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 6. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 154.22-070(2), 154.23-055, 154.24-110, 154.24-150(3) and (4), 154.26-100(2), [~~or~~] 154.28-110 ***or Section 4 of this Act*** shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning."

Floor Amendment No. 3 Title to **HB 188**, by Representative DeCesare:

HB 188, Amend the title to read as follows: "AN ACT relating to tax credits."

Floor Amendment No. 1 to **HB 127**, by Representative Osborne:

HB 127, On page 1, line 23, after the first "***and***", insert "***, in conjunction with the Cabinet for Economic Development,***";
On page 1, line 23, delete "***oversee and***"; and
On page 1, line 23, delete "***for Economic Development***".

Floor Amendment No. 2 to the Committee Substitute to **HB 490**, by Representative Yonts:

HB 490, On page 1, line 3, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;
On page 1, between lines 15 and 16, by inserting the following:
"***(5) "Disputed amount" means to question in good faith the validity, either in whole or part, of a request for payment asserted by any party;***";
On page 1, line 16, by deleting "***(5)***" and inserting "***(6)***" in lieu thereof;
On page 1, line 17, by deleting "***(6)***" and inserting "***(7)***" in lieu thereof;
On page 1, line 19, by deleting "***(7)***" and inserting "***(8)***" in lieu thereof;
On page 1, line 21, after "***obligations;***", by deleting the "***and***";
On page 1, line 22, by deleting "***(8)***" and inserting "***(9)***" in lieu thereof;
On page 1, line 24, after "***entity***", by deleting the "***.***" and inserting "***; and***" in lieu thereof;
On page 1, between lines 24 and 25, by inserting the following:
"***(10) "Undisputed amount" means a good faith, valid, accurate, timely request for payment which has been submitted to any entity owing money, that the recipient of the request for payment has reviewed and agrees that the money is due and owing.***";
On page 2, line 3, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;
On page 2, line 4, after the first "***and***", by deleting "***Sections 3 and 4***" and inserting "***Section 3***" in lieu thereof;
On page 2, line 17, after "***delays***", by deleting "***that can be shown***";
On page 2, lines 18 through 20, by deleting the lines in their entirety and inserting "***in performing the contract that are, in whole or part, within the control of the contracting entity. Unusually bad weather that cannot be reasonably anticipated, fire, or other act of God shall not automatically entitle the contractor to additional compensation under this paragraph.***
On page 2, line 26, after "***damages;***", by deleting "***or***";
On page 3, line 1, after "***disputes***", by inserting the following:
"***; or***
(e) Specifies which costs are recoverable by a contractor or subcontractor for delay
On page 3, line 6, after "***(5)***", by deleting "***All***" and by inserting "***Except as provided in subsection (7) of this section, all***";
On page 3, line 10, after "***(6)***", by deleting "***If***" and inserting "***Except as provided in subsection (7) of this section, if***";
On page 3, line 10, after "***(30)***", by inserting "***business***";
On page 3, line 12, after "***thirty-first***", by inserting "***business***";
On page 3, line 14, after "***the***", by deleting "***undisputed amount due***" and inserting "***unpaid amount. Twenty-five (25) business days following the submission of a timely, properly completed, undisputed request for payment, the contractor shall notify the contracting entity by certified mail if payment has not been received. The notice shall also include the date on which interest shall begin to accrue***" in lieu thereof;
On page 3, line 15, after "***(7)***", by inserting the following:
"***For purposes of subsections (5) and (6) of this section, a postsecondary institution and a board of education shall have forty-five (45) business days to make the payment required by those subsections. For purposes of payments by a board of education, the Department of Education shall have ten (10) business days, including the day the undisputed request for payment is received, to complete the final approval and application for payment and return it to the board of education. The ten (10) business days shall be included in the forty-five (45) business days. If the contracting entity fails to pay a contractor within forty-five (45) business days after receipt of the timely, properly completed, undisputed request for payment, the contracting entity shall, beginning on the forty-sixth day after receipt of the request, pay interest to the contractor computed at the rate of twelve percent (12%) per annum on the unpaid***

amount.

(8)";

On page 3, line 20, by deleting "***(8)***" and inserting "***(9)***" in lieu thereof;

On page 3, line 20, after "'***days***" by inserting "***of receipt of payment from the contracting entity***";

On page 3, line 23 after "***the***", by deleting "***disputed***" and inserting "***unpaid***" in lieu thereof;

On page 3, line 24, by deleting "***(9)***" and inserting "***(10)***" in lieu thereof;

On page 3, line 24, after "***Subsections***" by deleting "***(7) and (8)***" and inserting "***(8) and (9)***" in lieu thereof;

On page 4, lines 7 through 16, by deleting the lines in their entirety and inserting in lieu thereof the following:

"***(2) Within thirty (30) days after substantial completion of a construction project, the contracting entity or contractor shall release the retainage less an amount equal to two hundred percent (200%) of the contracting entitiy's reasonably estimated cost of the balance of any contractor's or subcontractor's contractually obligated, yet uncompleted, work remaining. The contracting entity's agent shall determine the reasonably estimated cost due under this subsection. The contracting entity, contractor, or subcontractor shall mutually agree with the schedule for completion of the work necessary for release of final payment. Within fifteen (15) business days after the retainage has been released by the contracting entity to the contractor, the contractor shall release to the subcontractors their proportional shares of the retainage. For purposes of this subsection, "substantial completion" is the point at which, as certified in writing by the contracting entity, a project is at the level of completion, in strict compliance with the contract, where:***

(a) Necessary approval by public regulatory authorities has been given;

(b) The owner has received all required warranties and documentation, and

(c) The owner may enjoy beneficial use or occupancy and may use, operate, and maintain the project in all respects, for its intended purpose.

Partial use or occupancy shall not necessarily result in the project being deemed substantially complete and shall not be evidence of substantial completion.";

On page 4, lines 22 through 27, by deleting the lines in their entirety;

On page 5, lines 1 to 5, by deleting the lines in their entirety;

On page 5, line 6, after "SECTION" by deleting "5" and inserting "4" in lieu thereof;

On page 5, line 8, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 9, after "***party***", by inserting "***if the losing party is deemed to have acted in bad faith***";

On page 5, line 13, after "SECTION" by deleting "6" and inserting "5" in lieu thereof;

On page 5, line 15, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 17, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 19, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 5, line 23, after "***has***", by deleting "***thirty (30)***" and inserting "***sixty (60)***" in lieu thereof;

On page 5, line 23, after the second "***a***", by inserting "***mechanic's***";

On page 5, line 24, by deleting the line in its entirety and Inserting the following;

7"***as provided in KRS Chapter 376. The filing of this lien shall not preclude the contractor from seeking additional relief. This subsection shall not apply to public construction contracts with lien rights governed under KRS 376.250.***";

On page 5, line 25, after "SECTION" by deleting "7" and inserting "6" in lieu thereof;

On page 5, line 27, after "***to***" the first time it appears, by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, line 2, after "***to***" the first time it appears, by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, line 3, after "***to***", by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, line 4, after "***to***" the first time it appears, by deleting "***7***" and inserting "***6***" in lieu thereof;

On page 6, by deleting lines 8 through 27 in their entirety;

On page 7, by deleting lines 1 through 4 in their entirety;

On page 7, between lines 4 and 5, by inserting the following:

"Section 7. KRS 376.230 is amended to read as follows:

(1) The lien provided for in KRS 376.210 shall be dissolved unless the person who furnishes the labor, materials, or supplies shall, ***whichever is later,*** within sixty (60) days after the last day of the month in which any labor, materials, or supplies were furnished***, or by the date of substantial completion,*** file in the county clerk's office of each county in which labor, materials, or supplies were furnished, except as hereinafter provided, a statement in writing verified by affidavit of the claimant or his or her authorized agent or attorney, setting forth the amount due for which the lien is claimed, the date on which labor, materials, or supplies were last furnished and the name of the canal, railroad, bridge, public highway, or other

public improvement upon which it is claimed.

(2) In all cases where a lien is claimed for labor, materials, or supplies furnished for the improvement of any bridge, public highway, or other public property owned by the state or by any county, charter county, urban-county, consolidated local government, or city, the statement of lien shall be filed only in the county clerk's office of the county in which the seat of government of the owner of the property is located.

(3) The county clerk, upon the filing of the statement, shall make an abstract and entry thereof as now provided by law in case of mechanics' liens in the same book used for that purpose, and shall make proper index thereof. The clerk shall be paid by the party filing the claim, and for attesting any copy of the lien statement. If he or she is required to make the copy, he or she may make an additional charge as provided by law. The clerk's fees shall be determined pursuant to KRS 64.012. All of these charges may be recovered by the lien claimant as costs from the party and out of the fund against which the claim is filed."; and

On page 7, lines 5 through 16, by deleting the lines in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 327**, by Representative Simpson:

HB 327, On page 35, after line 19, insert the following:

"Section 12. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; P. Community Development Fund Projects; 1. General Government; Kenton County, at page 1387, is amended to read as follows:

001.	City of Covington - Times Star Commons -		
	Planning***, Acquisition, and/or Demolition of Buildings, Site Preparation Including***		
	Environmental Remediation		
	Bond Funds	750,000	-0-
002.	City of Covington - Times Star Commons -		
	Planning***, Acquisition, and/or Demolition of Buildings, Site Preparation Including***		
	Environmental Remediation		
	General Fund	250,000	-0-
003.	City of Covington - West Covington Fire Station -		
	Property Acquisition		
	Bond Funds	300,000	-0-
004.	City of Fort Wright - Civil War Park Improvement		
	Bond Funds	250,000	-0-
005.	City of Park Hills - Sidewalk Construction		
	General Fund	250,000	-0-
006.	City of Park Hills - Thermoimaging Camera for		
	Fire Department		
	General Fund	12,500	-0-
007.	Kenton County Fiscal Court - Behringer-Crawford		
	Museum Improvements		
	Bond Funds	1,500,000	-0-
008.	Kenton County Fiscal Court - City of Covington		
	Renaissance on Main Facade Project		
	General Fund	100,000	-0-
009.	Kenton County Fiscal Court - Covington		
	Artisans Enterprise Center Improvements		
	Bond Funds	450,000	-0-";

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 2 to the House Committee Substitute to **SB 159**, by Representative Gray:

SB 159, On page 53, line 14, after "***(b)***" delete the rest of the line in its entirety and delete lines 15 through 19."

On page 53, line 20, delete "***(c)***".

On page 53, line 27, delete "***(d)***" and insert in lieu thereof "***(c)***".

On page 54, line 7, delete "***(e)***" and insert in lieu thereof "***(d)***".

Floor Amendment No. 5 to the House Committee Substitute to **SB 159**, by Representative Gray:

SB 159, On page 13, line 15, remove brackets and strikethrough from "[~~ and~~]".

On page 13, line 18, after "format" delete "***;***".

On page 13, delete lines 19 through 27 in their entirety.

On page 14, delete lines 1 through 6 in their entirety.

On page 14, line 7, delete "***be filed electronically before the next required report***".

On page 35, line 26, after "(b)" delete the rest of the line in its entirety and delete line 27 in its entirety.

On page 36, line 1, delete "***(c)***".

On page 36, line 21, delete "***(d)***" and remove the brackets and strikethrough from "[~~(e)~~]".

On page 36, line 27, delete "***(e)***" and remove the brackets and strikethrough from "[~~(d)~~]".

One page 37, line 8, delete "***(f)***" and remove the brackets and strikethrough from "[~~(e)~~]".

On page 53, line 14, after "***(b)***" delete the rest of the line in its entirety and delete lines 15 through 19."

On page 53, line 20, delete "***(c)***".

On page 53, line 27, delete "***(d)***" and insert in lieu thereof "***(c)***".

On page 54, line 7, delete "***(e)***" and insert in lieu thereof "***(d)***".

On page 62, line 4, after "***(1)***" delete the rest of line 4 through line 6 in their entirety.

On page 62, line 7, delete lines 7 and 8 in their entirety and insert in lieu thereof "***All filers are strongly encouraged to voluntarily file reports electronically.***"

On page 62, line 9, delete "***(3)***" and insert in lieu thereof "***(2)***".

On page 62, line 11, delete "***(4)***"and insert in lieu thereof "***(3)***".

On page 62, line 13, delete "***(5)***" and insert in lieu thereof "***(4)***".

On page 62, line 16, delete "***(6)***" and insert in lieu thereof "***(5)***".

Floor Amendment No. 3 to the Committee Substitute to **HB 549**, by Representative Wayne:

HB 549, On pages 54 through 57, beginning on line 9 of page 54 through line 27 of page 57, by deleting all text and inserting in lieu thereof the following:

"***(2) (a) To support the development of a project in a development area, a governing body may impose a transient room tax within the development area based upon a percentage rate that is projected to produce no more than four hundred thousand dollars ($400,000) in the first year. The percentage rate shall be imposed against the amount charged for every occupancy of a suite, room, or rooms charged by all persons doing business as motels, hotels, inns, or similar accommodations within the development area. The percentage rate shall be adjusted on an annual basis during the term of the grant agreement so that the amount generated from the levy shall provide an increase of four percent (4%) off the base amount collected during the prior year.***

(b) The entire proceeds from the levy permitted under paragraph (a) of this subsection shall be pledged to support a project within the development area.

(c) The levy permitted by this subsection shall be in addition to any levy imposed under KRS 91A.390."; and by renumbering subsequent sections accordingly.

Floor Amendment No. 4 to the Committee Substitute to **HB 549**, by Representative Wayne:

HB 549, On page 54, line 3 through page 57, line 27, by deleting all text and inserting in lieu thereof the following:

"***Notwithstanding any other provisions of KRS 65.490 to 65.499 to the contrary, the tax increment financing program or grant***

program for a proposed project that meets the requirements established in Section 27 of this Act may exist for a period of up to thirty (30) years, and may continue thereafter only if reauthorized by the General Assembly."; and

By renumbering subsequent sections accordingly.

Floor Amendment No. 3 to the House Committee Substitute to **SB 159**, by Representative Gray:

SB 159, On page 35, line 26, after "(b)" delete the rest of the line in its entirety and delete line 27 in its entirety.

On page 36, line 1, delete "***(c)***".

On page 36, line 21, delete "***(d)***" and remove the brackets and strikethrough from "[~~(e)~~]".

On page 36, line 27, delete "***(e)***" and remove the brackets and strikethrough from "[~~(d)~~]".

One page 37, line 8, delete "***(f)***" and remove the brackets and strikethrough from "[~~(e)~~]".

Floor Amendment No. 4 to the House Committee Substitute to **SB 159**, by Representative Gray:

SB 159, On page 13, line 15, remove brackets and strikethrough from "[~~ and~~]".

On page 13, line 18, after "format" delete "***;***".

On page 13, delete lines 19 through 27 in their entirety.

On page 14, delete lines 1 through 6 in their entirety.

On page 14, line 7, delete "***be filed electronically before the next required report***".

On page 62, line 4, after "***(1)***" delete the rest of line 4 through line 6 in their entirety.

On page 62, line 7, delete lines 7 and 8 in their entirety and insert in lieu thereof "***All filers are strongly encouraged to voluntarily file reports electronically.***"

On page 62, line 9, delete "***(3)***" and insert in lieu thereof "***(2)***".

On page 62, line 11, delete "***(4)***"and insert in lieu thereof "***(3)***".

On page 62, line 13, delete "***(5)***" and insert in lieu thereof "***(4)***".

On page 62, line 16, delete "***(6)***" and insert in lieu thereof "***(5)***".

Floor Amendment No. 2 to the Committee Substitute to **HB 327**, by Representative Simpson:

HB 327, On page 35, after line 19, insert the following:

"Section 12. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; P. Community Development Fund Projects; 1. General Government; Kenton County, at page 1387, is amended to read as follows:

001.	City of Covington - Times Star Commons -		
	Planning		
	Bond Funds	750,000	-0-
002.	City of Covington - Times Star Commons -		
	Planning		
	General Fund	250,000	-0-
003.	City of Covington - West Covington Fire Station -		
	Property Acquisition ***and/or Improvements for City Hall***		
	Bond Funds	300,000	-0-
004.	City of Fort Wright - Civil War Park Improvement		
	Bond Funds	250,000	-0-
005.	City of Park Hills - Sidewalk Construction		
	General Fund	250,000	-0-
006.	City of Park Hills - Thermoimaging Camera for		
	Fire Department		
	General Fund	12,500	-0-
007.	Kenton County Fiscal Court - Behringer-Crawford		
	Museum Improvements		
	Bond Funds	1,500,000	-0-

008.	Kenton County Fiscal Court - City of Covington Renaissance on Main Facade Project General Fund	100,000	-0-
009.	Kenton County Fiscal Court - Covington Artisans Enterprise Center Improvements Bond Funds	450,000	-0-";

Renumber subsequent sections accordingly;
On page 43, line 8, delete "12" and insert "13" in lieu thereof; and
On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 6 to the House Committee Substitute to **SB 159**, by Representative Fischer:

SB 159, On page 13, line 21, after "***when***" by deleting "***:***";
On page 13, line 22, by deleting "***1.***";
On page 13, line 23, by deleting the second "***or***";
On page 13, by deleting lines 24 and 25 in their entirety;
On page 35, line 26, by inserting after "***days***" the following "***, not including weekends or holidays,***"; and,
On page 62, line 5, by deleting "***but shall***" and inserting in lieu thereof "***and shall not be required to***".

Floor Amendment No. 1 to **HB 67**, by Representative Wuchner:

HB 67, On page 1, line 21 by placing brackets around and striking through "and";
On page 1, line 25 by deleting the period at the end of the sentence and by inserting in lieu thereof "***; and***";
On page 1, after line 25 by adding the following:
"***(f) Devise a civics review course for felony offenders to be offered no later than six (6) months prior to the release of such offenders. This course shall help prepare such offenders for the responsibilities of citizenship, including voting. A certificate of completion shall be given upon successful completion of the course.***";
On page 2, line 5 by placing brackets around and by striking through the word "and"; and
On page 2, line 6 after the word "Board" by inserting the following: "***; and***
(d) Has successfully completed the civics review course established in paragraph (f) of subsection (1) of this section evidenced by a certificate of completion".

Floor Amendment No. 1 to **HB 105**, by Representative Thompson:

HB 105, On page 1, delete lines 3 through 10 in their entirety, and insert in lieu thereof:

"***(1) A person is guilty of misrepresenting military or veteran status in the United States Armed Forces, Reserve Component, or National Guard if that person represents himself or herself as a veteran with the intent to defraud for the purpose of personal gain. Personal gain includes but is not limited to:***

(a) Obtaining government benefits;
(b) Being elected or appointed to public office;
(c) Obtaining employment;
(d) Qualifying for a special license plate under KRS 186.041; and
(e) Representing, in writing, orally, or by other fraudulent display, that the person is entitled to wear any military award, decoration, or rank.

(2) Misrepresenting military or veteran status in the United States Armed Forces, Reserve Component, or National Guard is a Class A misdemeanor, unless a more severe penalty for the offense is applicable, in which case the higher penalty shall apply.

(3) KRS 431.100 notwithstanding, any fine assessed as a penalty for conviction under this section shall be transferred by the circuit clerk and deposited with the veterans' program trust fund established by KRS 40.460(2)(b).

Section 1. This Act may be cited as the Kentucky Stolen Valor Act."

Floor Amendment No. 2 to the Committee Substitute to **HB 358**, by Representative Webb:

HB 358, On page 13, line 27, after "***permitted***" to delete "***shall***" and insert in lieu thereof "***may***".

Floor Amendment No. 1 to **HB 213**, by Representative Ballard:

HB 213, On page 5, after line 17, insert the following:

"Section 4. KRS 164.5161 is amended to read as follows:

(1) "Educational institution" means an in-state public or private postsecondary educational institution.

(2) The General Assembly of the Commonwealth of Kentucky establishes the National Guard ***and Reserve Component*** Tuition Award Program to provide members of the Kentucky National Guard ***and members of a Reserve Component with Kentucky as their home of record*** the opportunity to attend an in-state educational institution. The tuition paid shall be up to or equal to the in-state full or part-time tuition rate of the institution the member attends except that tuition paid in support of a member attending a private postsecondary educational institution shall be up to or equal to the average in-state full or part-time tuition rate of a public university or community college. Until the appropriation for the tuition assistance program of the Department of Military Affairs is first fully funded by the General Assembly, tuition for a member to attend a private institution shall not be paid. The tuition award program shall be established in the Kentucky Higher Education Assistance Authority.

(3) The Kentucky Higher Education Assistance Authority pursuant to KRS Chapter 13A, shall promulgate administrative regulations necessary to the financial management of the tuition award program.

(4) The Department of Military Affairs, pursuant to KRS Chapter 13A, shall promulgate administrative regulations concerning the eligibility of members to participate in the tuition award program established in this section."

Floor Amendment No. 2 Title to **HB 213**, by Representative Ballard:

HB 213, Amend the title to read as follows: "AN ACT relating to honoring military service through education benefits."

Floor Amendment No. 3 to the Committee Substitute to **HB 327**, by Representative Ford:

HB 327, On page 25, after line 1, insert the following:

"Section 8. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; B. Commerce Cabinet; 2. Horse Park Commission, at pages 1220 and 1221, is amended to read as follows:

2. HORSE PARK COMMISSION

001.	Construct New Indoor Arena		
	Bond Funds	***40,500,000***	***-0-***
[	~~Bond Funds~~	~~36,500,000~~	~~0~~]
	Other Funds	6,180,000	-0-
	TOTAL	***46,680,000***	***-0-***
[	~~TOTAL~~	~~42,680,000~~	~~0~~]
002.	Construct Hotel/Conference Center		
	Other Funds	27,500,000	-0-
003.	Maintenance Pool		
	Investment Income	575,000	575,000
004.	Construct Permanent Seating Stadium Jump Area		
	Reauthorization ($1,000,000 Other Funds)		
005.	***Construct Outdoor Stadium***		
	Bond Funds	***24,000,000***	***-0-***
006.	***Horse Park Roads and Pedways***		
	Road Fund	***-0-***	***10,285,000***";

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 7 to the Committee Substitute to **HB 327**, by Representative Ford:

HB 327, On page 25, after line 1, insert the following:

"Section 8. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 4. Governor's Office for Local Development, at pages 1218 and 1219, is amended to read as follows:

4. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

001.	Owenton/Owen County Natural Gas Line Project		
	Bond Funds	5,000,000	-0-
002.	Flood Control Matching Fund/State Owned Dam Repair		
	General Fund	800,000	800,000
	Restricted Funds	700,000	700,000
	Investment Income	500,000	500,000
	TOTAL	2,000,000	2,000,000
003.	Warren County Fiscal Court - Transpark - Rail Spur		
	Bond Funds	4,500,000	-0-
004.	Leslie County Fiscal Court - Leslie County Six Volunteer Fire Departments - Equipment and Operations		
	Reauthorization and Reallocation ($120,000 Restricted Funds)		

The above project is authorized from a reallocation from the Leslie County Fiscal Court - Equipment and Operations project in 2005 Ky. Acts ch., 173, Part I, A., 9.,b.

005.	Community Development Fund Projects		
	General Fund	20,650,800	8,453,000
	Bond Funds	75,658,000	-0-
	TOTAL	96,308,000	8,453,000
007.	Franklin County – Lease		
008.	***Community Economic Growth Program***		
	Bond Funds	***20,000,000***	***-0-***";

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 6 to the Committee Substitute to **HB 327**, by Representative Ford:

HB 327, On page 25, after line 1, insert the following:

"Section 8. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 2. Kentucky Infrastructure Authority, at pages 1217 and 1218, is amended to read as follows:

2. KENTUCKY INFRASTRUCTURE AUTHORITY

001.	KIA Fund F - Drinking Water Revolving Loan Program		
	Federal Funds	20,000,000	-0-
	Bond Funds	4,000,000	-0-
	TOTAL	24,000,000	-0-
002.	KIA Fund A - Federally Assisted Wastewater Program		
	Federal Funds	20,000,000	-0-
	Bond Funds	4,000,000	-0-
	TOTAL	24,000,000	-0-
003.	Infrastructure for Economic Development Fund for Non-Coal Producing Counties		
	Bond Funds	150,000,000	-0-
004.	Infrastructure for Economic Development Fund for Coal-Producing Counties		
	Bond Funds	100,000,000	-0-

(1) **Expenditure of Loan Repayments Cash Balances:** The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

005. City of Hindman - Water Line Improvements

Reauthorization and Reallocation ($88,888)

The above project is authorized from a reallocation from the Knott County Water and Sewer District - Ball Creek Water Project and Others in 2005 HJR 92 (2005 Ky. Acts ch. 170, Vol. Ia, Part II, Infrastructure for Economic Development Fund for Coal-Producing Counties, p. 1830).

006. Fund B Loan Program

Bond Funds	***25,000,000***	***-0-***;

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 5 to the Committee Substitute to **HB 327**, by Representative Ford:

HB 327, On page 8, line 14, delete "***76,735,300***" and insert "***77,936,700***" in lieu thereof;

On page 8, line 18, delete "***332,933,800***" and insert "***334,135,200***" in lieu thereof; and

On page 13, after line 25, insert the following:

"***(19) Human Papillomavirus Vaccine: Included in the above General Fund appropriation is $4,116,000 in fiscal year 2007-2008 to provide Human Papillomavirus vaccine on a voluntary basis to uninsured females ages 9-26 years old.***"

Floor Amendment No. 4 to the Committee Substitute to **HB 327**, by Representative Ford:

HB 327, On page 16, after line 26, insert the following:

"Section 7. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 2. Kentucky Higher Education Assistance Authority, at pages 1203 and 1204, is amended to read as follows:

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2006-07	**2007-08**
General Fund (Tobacco)	800,000	900,000
General Fund	***164,624,300***	***199,304,900***
[~~General Fund~~	~~164,624,300~~	~~174,304,900~~]
Restricted Funds	39,044,500	36,219,300
Federal Funds	1,726,000	1,726,000
TOTAL	***206,194,800***	***238,150,200***
[~~TOTAL~~	~~206,194,800~~	~~213,150,200~~]

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $58,427,800 in fiscal year 2006-2007 and ***$78,462,000***[~~$60,462,000~~] in fiscal year 2007-2008 for the College Access Program.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $30,270,100 in fiscal year 2006-2007 and ***$34,476,200***[~~$32,476,200~~] in fiscal year 2007-2008 for the Kentucky Tuition Grant Program.

(3) **Teacher Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $1,777,100 in fiscal year 2006-2007 and $1,777,100 in fiscal year 2007-2008 for the Teacher Scholarship Program.

(4) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $800,000 in fiscal year 2006-2007 and $900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

(5) **Kentucky National Guard Tuition Assistance Program:** Included in the above Restricted Funds appropriation is $4,500,000 in fiscal year 2006-2007 and $5,220,000 in fiscal year 2007-2008 for the Kentucky National Guard Tuition Assistance Program.

(6) **Kentucky Education Excellence Scholarships (KEES):** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $73,125,000 in fiscal year 2006-2007 and $77,565,300 in fiscal year 2007-2008 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation for KEES is $14,909,100 in fiscal year 2006-2007 and $11,345,800 in fiscal year 2007-2008.

(7) **Pharmacy Scholarship Program:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for the Pharmacy Scholarship Program as set forth in Part XXIV, Pharmacy Scholarship Program, of this Act.

(9) Student Financial Aid: Included in the above General Fund appropriation is $5,000,000 in fiscal year 2007-2008 for a new, need-based student financial aid program, targeted to adult, part-time students with some college credit but no baccalaureate degree.";

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 8 to the Committee Substitute to **HB 327**, by Representative DeWeese:

HB 327, On page 25, after line 1, insert the following:

"Section 8. 2006 Kentucky Acts Chapter 252, Part II. Capital Projects Budget; A. General Government; 4. Governor's Office for Local Development, at pages 1218 and 1219, is amended to read as follows:

4. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

001. Owenton/Owen County Natural Gas Line Project		
Bond Funds	5,000,000	-0-
002. Flood Control Matching Fund/State Owned Dam Repair		
General Fund	800,000	800,000
Restricted Funds	700,000	700,000
Investment Income	500,000	500,000
TOTAL	2,000,000	2,000,000
003. Warren County Fiscal Court - Transpark - Rail Spur		
Bond Funds	4,500,000	-0-
004. Leslie County Fiscal Court - Leslie County Six Volunteer Fire Departments - Equipment and Operations		
Reauthorization and Reallocation ($120,000 Restricted Funds)		

The above project is authorized from a reallocation from the Leslie County Fiscal Court - Equipment and Operations project in 2005 Ky. Acts ch., 173, Part I, A., 9.,b.

005. Community Development Fund Projects		
General Fund	20,650,800	8,453,000
Bond Funds	75,658,000	-0-
TOTAL	96,308,000	8,453,000
007. Franklin County – Lease		
008. Community Economic Growth Program		
Bond Funds	***20,000,000***	***-0-***";

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 10 to the Committee Substitute to **HB 327**, by Representative DeWeese:

HB 327, On page 8, line 14, delete "*76,735,300*" and insert "*77,936,700*" in lieu thereof;

On page 8, line 18, delete "*332,933,800*" and insert "*334,135,200*" in lieu thereof; and

On page 13, after line 25, insert the following:

"***(19) Human Papillomavirus Vaccine: Included in the above General Fund appropriation is $4,116,000 in fiscal year 2007-2008 to provide Human Papillomavirus vaccine on a voluntary basis to uninsured females ages 9-26 years old.***"

Floor Amendment No. 9 to the Committee Substitute to **HB 327**, by Representative DeWeese:

HB 327, On page 25, after line 1, insert the following:

"Section 8. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; A. General Government; 2. Kentucky Infrastructure Authority, at pages 1217 and 1218, is amended to read as follows:

2. KENTUCKY INFRASTRUCTURE AUTHORITY

001.	KIA Fund F - Drinking Water Revolving Loan Program		
	Federal Funds	20,000,000	-0-
	Bond Funds	4,000,000	-0-
	TOTAL	24,000,000	-0-
002.	KIA Fund A - Federally Assisted Wastewater Program		
	Federal Funds	20,000,000	-0-
	Bond Funds	4,000,000	-0-
	TOTAL	24,000,000	-0-
003.	Infrastructure for Economic Development Fund for Non-Coal Producing Counties		
	Bond Funds	150,000,000	-0-
004.	Infrastructure for Economic Development Fund for Coal-Producing Counties		
	Bond Funds	100,000,000	-0-

(1) **Expenditure of Loan Repayments Cash Balances:** The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

005. City of Hindman - Water Line Improvements
Reauthorization and Reallocation ($88,888)

The above project is authorized from a reallocation from the Knott County Water and Sewer District - Ball Creek Water Project and Others in 2005 HJR 92 (2005 Ky. Acts ch. 170, Vol. Ia, Part II, Infrastructure for Economic Development Fund for Coal-Producing Counties, p. 1830).

006.	*Fund B Loan Program*		
	Bond Funds	*25,000,000*	*-0-*;

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 11 to the Committee Substitute to **HB 327**, by Representative DeWeese:

HB 327, On page 16, after line 26, insert the following:

"Section 7. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; K. Postsecondary Education; 2. Kentucky Higher Education Assistance Authority, at pages 1203 and 1204, is amended to read as follows:

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2006-07	2007-08
General Fund (Tobacco)	800,000	900,000
General Fund	*164,624,300*	*199,304,900*
[~~General Fund~~	~~164,624,300~~	~~174,304,900~~]
Restricted Funds	39,044,500	36,219,300
Federal Funds	1,726,000	1,726,000
TOTAL	*206,194,800*	*238,150,200*
[~~TOTAL~~	~~206,194,800~~	~~213,150,200~~]

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $58,427,800 in fiscal year 2006-2007 and *$78,462,000*[~~$60,462,000~~] in fiscal year 2007-2008 for the College Access Program.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund

appropriation is $30,270,100 in fiscal year 2006-2007 and ***$34,476,200***[~~$32,476,200~~] in fiscal year 2007-2008 for the Kentucky Tuition Grant Program.

(3) **Teacher Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $1,777,100 in fiscal year 2006-2007 and $1,777,100 in fiscal year 2007-2008 for the Teacher Scholarship Program.

(4) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $800,000 in fiscal year 2006-2007 and $900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

(5) **Kentucky National Guard Tuition Assistance Program:** Included in the above Restricted Funds appropriation is $4,500,000 in fiscal year 2006-2007 and $5,220,000 in fiscal year 2007-2008 for the Kentucky National Guard Tuition Assistance Program.

(6) **Kentucky Education Excellence Scholarships (KEES):** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $73,125,000 in fiscal year 2006-2007 and $77,565,300 in fiscal year 2007-2008 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation for KEES is $14,909,100 in fiscal year 2006-2007 and $11,345,800 in fiscal year 2007-2008.

(7) **Pharmacy Scholarship Program:** Included in the above General Fund appropriation is $1,000,000 in fiscal year 2007-2008 for the Pharmacy Scholarship Program as set forth in Part XXIV, Pharmacy Scholarship Program, of this Act.

(9) Student Financial Aid: Included in the above General Fund appropriation is $5,000,000 in fiscal year 2007-2008 for a new, need-based student financial aid program, targeted to adult, part-time students with some college credit but no baccalaureate degree.";

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 12 to the Committee Substitute to **HB 327**, by Representative DeWeese:

HB 327, On page 25, after line 1, insert the following:

"Section 8. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; B. Commerce Cabinet; 2. Horse Park Commission, at pages 1220 and 1221, is amended to read as follows:

2. HORSE PARK COMMISSION

001.	Construct New Indoor Arena		
	Bond Funds	***40,500,000***	***-0-***
[	~~Bond Funds~~	~~36,500,000~~	~~0~~]
	Other Funds	6,180,000	-0-
	TOTAL	***46,680,000***	***-0-***
[	~~TOTAL~~	~~42,680,000~~	~~0~~]
002.	Construct Hotel/Conference Center		
	Other Funds	27,500,000	-0-
003.	Maintenance Pool		
	Investment Income	575,000	575,000
004.	Construct Permanent Seating Stadium Jump Area		
	Reauthorization ($1,000,000 Other Funds)		
005.	***Construct Outdoor Stadium***		
	Bond Funds	***24,000,000***	***-0-***
006.	***Horse Park Roads and Pedways***		
	Road Fund	***-0-***	***10,285,000***";

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 352**, by Representative Wuchner:

HB 352, Beginning on page 1, line 1 and continuing to page 3, line 6, delete the language in its entirety and insert the following in lieu thereof:

"Section 1. The Interim Joint Committee on Health and Welfare shall hear testimony during the 2007 interim relating to the reimbursement rates paid by health benefit plans for services and procedures provided by chiropractors.".

Floor Amendment No. 2 to the Committee Substitute to **HB 352**, by Representative Wuchner:

HB 352, Beginning on page 1, line 1 and continuing to page 3, line 6, delete the language in its entirety and insert the following in lieu thereof:

"Section 1. The Interim Joint Committee on Health and Welfare is requested to hear testimony during the 2007 interim relating to the reimbursement rates paid by health benefit plans for services and procedures provided by chiropractors.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 70, Representatives C. Belcher and Edmonds

HB 142, Representative Hall

HB 290, Representative Floyd

HB 296, Representative Combs

HB 403, Representative Hall

HB 440, Representative McKee

HB 417, Representative Napier

HB 490, Representatives Embry, Horlander, and Jenkins

HB 536, Representative Bratcher

HB 549, Representative Wuchner

HJR 84, Representative McKee

Announcements

Committee on Local Government, special meeting upon recess, Room 305

Committee on Judiciary, after Rules meeting, Speaker's Office

Committee on Labor and Industry, 10:00 a.m., Thursday, March 1, 2007, Room 149

Committee on Economic Development, 8:00 a.m., Thursday, March 1, 2007

Committee on Tourism Development and Energy, 10:00 a.m., Thursday, March 1, 2007

Committee on Natural Resources and Environment, 9:00 a.m., Thursday, March 1, 2007, Room 129

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Thursday, March 1, 2007.

The motion that the House adjourn until 2:00 p.m., Thursday, March 1, 2007, was adopted by voice vote.